



New York State Department of Transportation (on behalf of the)
New York Metropolitan Transportation Council
Request for Proposals (RFP)
Contract: C004308

Northern Westchester East-West Corridors Study

Modification #1

April 7, 2025

Proposed Schedule

RFP Release Date	February 5, 2025
Question Submittal Deadline	March 5, 2025
Question Response Deadline	March 21, 2025
<u>Round 2 Question Submittal Deadline</u>	<u>April 16, 2025</u>
<u>Round 2 Question Response Deadline</u>	<u>April 30, 2025</u>
Proposal Due Date	<u>June 16, 2025</u> May 27, 2025 @ 2 PM
Recommendation & Designation	August <u>September 15</u> , 2025
Contract Finalization	September 15 <u>30</u> , 2025
Contract Award	November 15 <u>December 1</u> , 2025

The New York State Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, as amendment, issued pursuant to such Act, hereby notifies all who respond to a written Department solicitation, request for proposal or invitation for bid that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and income status in consideration for award.

Compliance with Procurement Lobbying Law

Under the requirements of the State Procurement Act, communications regarding the advertised project/procurement may only occur through the Designated Contacts. Communications exempted from this restriction are participation in a pre-proposal conference and any protests or complaints of improper conduct or misrepresentation. *See also*

<https://www.dot.ny.gov/portal/page/portal/main/business-center/consultants/general-info>

All questions concerning this solicitation must be directed only to the individuals specified below. Responses to all questions of a substantive nature received by the stated deadline, as well as copies of the questions, will be posted to the NYMTC and NYSDOT websites. **All questions must be submitted using Attachment 14 - Proposer Question Template.**

The Designated Contact Persons are:

NYMTC Administrative Staff: *Seitu Allen & Joomee Lee*

New York Metropolitan Transportation Council - Administration Group

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New York, NY 10004

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(212) 383-1885 / (212) 383-7292

The Contract Management Specialist: *Patty Kappeller*

NYSDOT Office of Contract Management

50 Wolf Road, 6th Floor

Albany, NY 12232-0203

Email: patricia.kappeller@dot.ny.gov

(518) 457-2600

OR

The Office of Contract Management

Non-Architectural/Engineering Unit Supervisor

Assistant Directors, Deputy Director, and Director

Administrative Staff

(518) 457-2600

REQUEST FOR PROPOSALS (RFP) INTERESTED PARTY RESPONSE FORM

Contract: C004308

Northern Westchester East-West Corridors Study

Please review this RFP, complete the following information, and email the completed form to the Designated Contact at the email address below, by the earliest date practical.

___ We **DO** intend to submit a Proposal

___ We **DO NOT** intend to submit a Proposal for the following reasons:

Proposer Name: _____

Address: _____

City, State, _____ Zip Code: _____

Telephone: _____

Email Address: _____

Typed Name and Title: _____

Signature: _____ Date: _____

Please email the completed form to Seitu.Allen@dot.ny.gov / Joomee.Lee@dot.ny.gov

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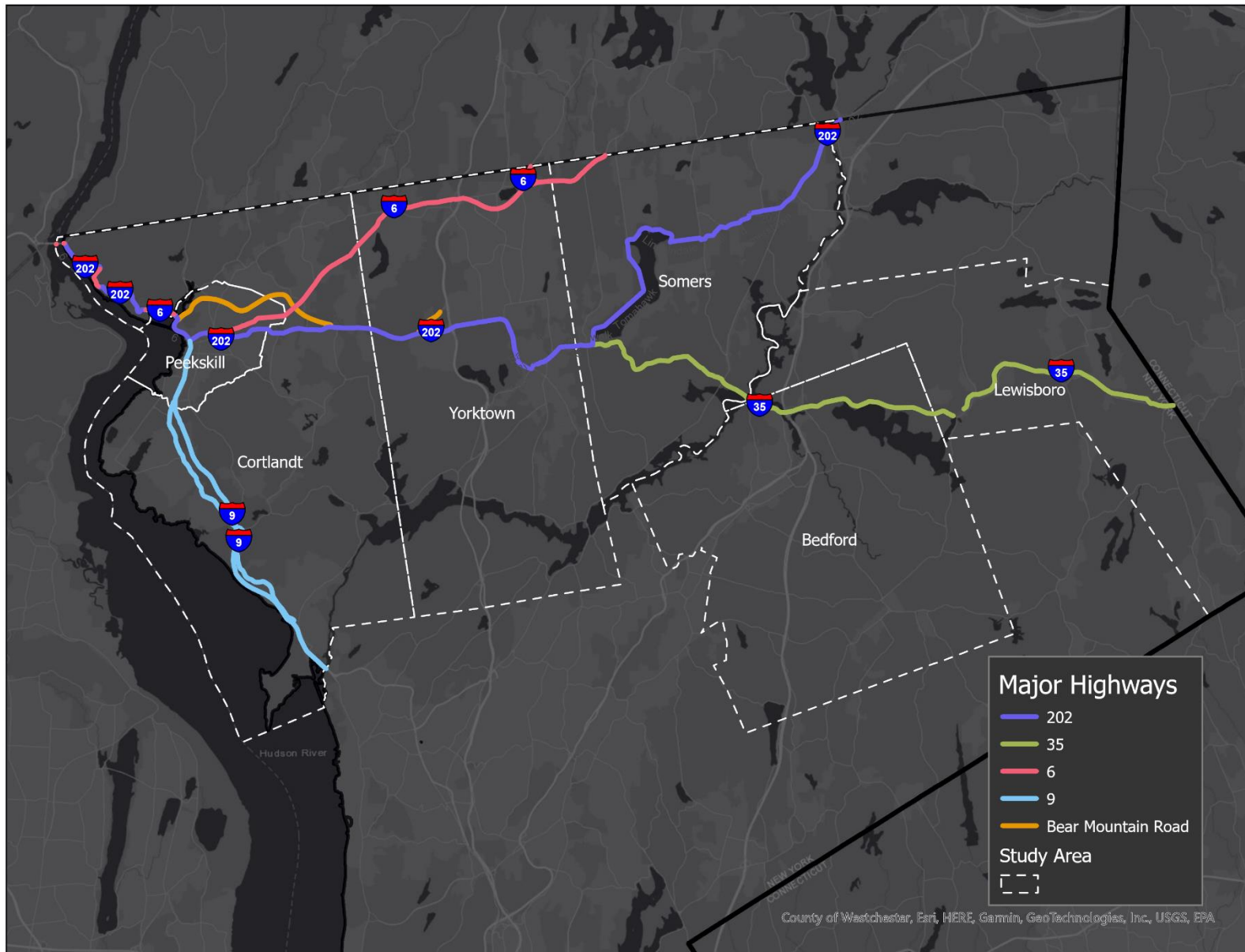
Contract: C004308

Project Title: Northern Westchester East-West Corridors Study

1. Introduction

1.1. Purpose

NYMTC, through its administrative host, NYSDOT, is releasing this Non-Architectural/ Engineering RFP to seek services from a responsive and responsible Consultant (or team of consultants) to undertake a Planning and Environmental Linkages (PEL) Study centered on the east-west transportation corridor in northern Westchester County which contains the Bear Mountain Parkway, Route 6, Route 35, and Route 202/35.



The documented need to evaluate this corridor has been indicated by including four vision projects in NYMTC's current Regional Transportation Plan, Moving Forward. The study was identified to address the corridor's existing safety, mobility, infrastructure, community/social, environmental, and economic development, and then identify needs and system gaps and provide feasible concepts for a sustainable redesign that mitigates existing conditions.

Approaching the study holistically, the entire corridor will be evaluated to quantify its regional impact as the primary east-west route across northern Westchester County. Specific tasks include planning, environmental studies, an origin-destination analysis, developing a purpose and need, alternative development, cost estimating construction phasing, and public involvement. The study will include some work that may be accepted into a future environmental document as listed in [23 U.S.C. 168 Integration of Planning and Environmental Review](#). The study will also identify existing and projected land uses which are or will serve as the origin or destination points for the corridor's traffic.

Three main needs have been identified for this study: safety, economic development, and infrastructure redesign. The PEL Study should make recommendations that improve safety, accommodate all users, minimize congestion, increase operational capacity and system interchange operations, reestablish connections in the transportation corridor, and support development.

1. Safety:

The study will seek to improve the safety of the corridor. The corridor serves a blend of retail, commercial, light industrial, freight, entertainment, recreational, and residential uses. Currently, bicycle and pedestrian accommodations are minimal, thus creating an inequitable travel corridor.

2. Economic development:

Due to age, increasing use, and design inadequacies, the existing corridor infrastructure poses challenges for efficiently moving freight and the traveling public across northern Westchester County.

3. Infrastructure:

The infrastructure in the study area is aged. While small, localized improvements have been made, the roadway network has not kept pace with the increase in users. Most roadways are still two lanes, and the Bear Mountain Parkway remains incomplete.

1.2. Background

This federally funded study will be guided by a Project Steering Committee (PSC). The New York Metropolitan Transportation Council's (NYMTC) Mid-Hudson South Transportation Coordinating Committee (MHSTCC) will work with the NYMTC project manager to identify the members of the Project Steering Committee (PSC).

At the first PSC meeting, the PSC will determine the composition of the Project Advisory Committee (PAC), and the project manager will meet with relevant local officials to identify the specific individuals who will serve on the PAC. In addition, the roles and responsibilities of the PAC will be developed by the PSC in consultation with the PAC, the initial study limits will be confirmed by the PSC in consultation with the PAC, and a master distribution list of targeted stakeholders will be recommended to the PSC by the PAC.

The study location is an integral connection between commercial centers, residential areas, and major north-south corridors. The transportation corridor is critical for commerce, freight, residents, and visitors.

The study location stretches from the Hudson River to Connecticut across northern Westchester County. The corridor's western end includes a marine freight terminal on the Hudson River, the MTA Metro-North Railroad Hudson Line with commuter service to New York City, Route 9 running north-south along the Hudson River, and the City of Peekskill. Further east is the Taconic State Parkway, a major north-south artery for non-commercial vehicles connecting New York City and upstate New York. This western section of the corridor is characterized by heavy commercial and residential development. In the center of the corridor is the MTA Metro-North Railroad Harlem Line with commuter service to New York City and Interstate 684, a major north-south route between New York City and New England. The eastern section of the corridor is characterized by residential development and small commercial centers. The corridor supports local traffic within the corridor and commuter and through travel to the major north-south arteries and Connecticut.

The corridor has experienced various operational issues over the years. Support for alternative transportation via bicycle, electric bikes, scooters, and walking is severely limited rendering these modes unsafe to use in most of the corridor. Heavy freight traffic is forced to use city streets through Peekskill, impacting safety for other road users and negatively impacting the local community. Congestion is a notable issue in many parts of the corridor as is safety, especially at intersections and on the congested two-lane sections of the roadways. Interchange geometry for many interchanges along the Bear Mountain Parkway remains a safety issue. In recent years there have been over 800 crashes annually across the entire corridor, with approximately 20% of those crashes involving injuries.

The east-west corridor contains an intermodal asset in Fleischmann Pier. The pier has a long history of marine freight functionality, providing a resiliency element for marine freight interstate movement throughout the corridor. The New York State Office of Disaster Preparedness informed the City of Peekskill that it is updating its 2019 5-year New York State Hazard Mitigation Plan and is considering including potential regionally significant marine assets in the update. Through this study, commercial truck routes to and from the Fleischman Pier shall be identified that minimize potential negative impacts on pedestrian environments and define any roadway or logistical requirements for such routes.

The local communities feel that heavy commercial trucks with destinations to the east or west of the corridor should use the Bear Mountain Parkway to avoid downtown Peekskill city streets. Moving

commercial vehicles off city streets would reduce congestion, noise, air pollution, and unsafe walking conditions, but would require improvements to the Bear Mountain Parkway and other roadways throughout the corridor.

Residents of Peekskill, Cortlandt, and Yorktown have also expressed interest in a bicycle and walking route from the Hudson Riverfront to existing shared-use infrastructure like the South County Trailway and Empire State Trail.

There are currently no major projects planned for the corridor. There is a culvert rehabilitation project (PIN: 881452) where Route 6 crosses Gregory Pond (PIN: C880003) in the Town of Cortlandt. Local projects at individual intersections or along the corridor will continue throughout the Study duration.

The key stakeholders, including representatives from the impacted municipalities, are anticipated to identify desired improvements to the corridor, including improvements identified in previous studies. While the study is in progress, municipalities may continue to apply for competitive federal and state grants to fund improvements and may work with NYSDOT Region 08 and Westchester County to pursue other funding opportunities.

The study will identify concepts to enhance safety, provide missing link highway connections, and apply planning methodologies to re-establish linkages. These improvements will allow the corridor to accommodate all travel modes, improve user safety, be operationally efficient, and enhance the local community.

The study will comprehensively analyze the transportation corridor containing the Bear Mountain Parkway, Route 6, Route 35, and Route 202/35 in northern Westchester County in New York State. The study is the initial step in this transportation corridor's planning and design process. The study will identify the existing safety, mobility, infrastructure, community, economic development, regional connection, environmental, social, equity, and environmental justice conditions. The study will identify concepts to enhance safety, provide missing link highway connections, and re-establish the corridor to accommodate the traveling public in all modes. The study will represent a collaborative and integrated approach to transportation decision-making that considers environmental, community, and economic goals early in the transportation planning process, thereby using the information, analysis, and products developed during planning to inform the development of feasible concepts, environmental review processes, and preliminary design. The study will be completed using the principles and initiatives of the FHWA Planning and Environmental Linkages (PEL) program.

~~1.2.1.2.~~ 1.3. Contract Objectives

This study will identify and address current and projected transportation (mobility, safety, and operational) issues within the study area. Ultimately, this effort will produce a PEL study that includes elements of a Project Scoping Report (PSR) document and will provide feasible concepts to address safety issues for all roadway users, connect people with employment opportunities, engage functional design, and create a corridor for all users.

The study will use industry transportation planning, analysis, modeling, simulation, and traffic engineering to understand the current issues affecting the study area. The planning analysis will be used to understand the existing equity and environmental concerns and seek ways to mitigate them. The development of feasible concepts will be used to evaluate changes to the geometric design of

the corridor and corridor traffic flows and address safety issues. Computerized models will represent the interplay of existing conditions, projected land-use buildout, and future traffic volumes and incorporate current design standards in the study area.

1.3.1.4. Minimum RFP Responsiveness

Any Proposer that does not provide **ALL** the following by the **Proposal Submission Deadline** will be determined to be non-responsive and will be removed from further consideration (prior to the technical evaluation of Proposals)

Part I – Technical Proposal – Submit electronically in Adobe PDF Format.

☐	Signed Cover Letter on Official Company Letterhead
☐	Table of Contents identifying each major section and page numbers
☐	Narrative Description
☐	Experience
☐	Approach, Scope of Services and Schedule
☐	Organization and Staffing
☐	Attachment 11: Key Personnel References
☐	Attachment 16: Staffing Table/Level of Effort

Part II – Cost and Administrative Proposal – Submit Electronically in Adobe PDF Format, except where noted.

☐	Signed Cover Letter on Official Company Letterhead
☐	Attachment: 15 - Cost Proposal Workbook
☐	Vendor Responsibility Questionnaire – online certification or a scan of the hard copy questionnaire
☐	Attachment 2: Consultant Information
☐	Attachment 3: Procurement Lobbying Act Certification Form
☐	Attachment 4: Consultant Certification Form
☐	Attachment 8: Utilization Plan – DBE Participation including certifications, and Good Faith Effort justification and AAP-10 DBE/MBE/WBE/SDVOB Solicitation Log

1.5. RFP Modifications

If necessary, NYMTC/NYS DOT will issue modifications to modify conditions or requirements of this RFP. Proposers are advised to visit the NYMTC and NYSDOT websites:

<https://dot.ny.gov/doing-business/opportunities/consult-opportunities>
<https://www.nymtc.org/en-us/Utility-Menu/Doing-Business/Current-RFPs>

regularly to check for Modifications. The final Modifications will be posted on the NYMTC and NYSDOT websites not later than seven (7) calendar days prior to the Proposal Due Date. If additional Modification is required within the seven (7) calendar days, the Proposal Due Date shall be revised such that there will be seven (7) calendar days from the final Modification to the Proposal Due Date.

2. Scope of Services

2.1. Tasks

Task 1 – Study Governance

Task 2 – Key Study Parameters

Task 3 – Existing Study Area Conditions – Transportation System

Task 4 – Land Use & Development Profile

Task 5 – Existing Study Area Conditions – Environmental Analysis

Task 6 – Study Outreach Program

Task 7 – Disposition of Previous Recommendations from Past Transportation Studies

Task 8 – Community Visioning

Task 9 – Planning and Environmental Linkage (PEL) Study

Task 10 – Draft Study Report

Task 11 – Public Review

Task 12 – Final Study Report

Detailed descriptions of tasks are in Attachment 13: Detailed Scope of Services.

~~2.1.2.2.~~ 2.2.2.2. Organization and Staffing

The qualifications and prior experience of the Proposer are of great importance to NYSDOT. Key personnel job duties and qualifications are located in **Attachment 12: Contract Job Titles Descriptions and Qualifications**.

~~2.2.2.3.~~ 2.2.2.3. Civil Rights Requirements

The level of certified Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE), Women-Owned Business Enterprises (WBE), and Service-Disabled Veteran-Owned Businesses (SDVOB) will be relevant for selecting Proposals to achieve the goals of the Department.

Meaningful participation is defined as providing commercially useful functions or services that:

1. Result in a product or services distinguishable from the Prime Consultant's product or service or be a part of the services provided by the Prime Consultant.
2. Be for scope of service elements which can be and are completely performed, supervised, and managed by the DBE/MBE/WBE/SDVOB subconsultant, or
3. Performed significant tasks which can be considered commercially marketable.

To count towards the participation goal(s), Prime Firms must ensure that all of their proposed DBE/MBE/WBE/SDVOB subconsultants are currently certified through the New York State Unified Certification Program (DBE Directory) (<https://nysucp.newnycontracts.com>), the New York State Contract System (M/WBE Directory) (<https://www.ny.newnycontracts.com>), and the Director of New York State Certified Service-Disabled Veteran-Owned Businesses (<https://online.ogs.ny.gov/SDVOB/search>) for the type of work they are anticipated to perform. Certifications must be downloaded and copies provided with the submission.

Goals

Disadvantaged Business Enterprise (DBE) Participation Goal: 14.85%

Minority Business Enterprise (MBE) Participation Goal: 0%

Women-Owned Business Enterprise (WBE) Participation Goal: 0%

Service-Disabled Veteran-Owned Business (SDVOB) Participation Goal: 0%

The SDVOB participation goal is separate from and in addition to any M/WBE goals. Firms that are dual certified may only be used to meet one of the Participation Goal(s) above.

Proposers must verify the attainment of the participation goal by completing either Attachment 8: Utilization Plan – DBE Participation or Attachment 9: MBE/WBE/SDVOB Utilization Plan – MBE/WBE/SDVOB Participation, as applicable.

If the Proposal does not meet the required Participation Goal(s), the Proposer must provide documentation of their Good Faith Efforts. Reference the Construction Contract's DBE/MBE/WBE/SDVOB Contractor's Solicitation and Good Faith Efforts Guide and the Good Faith Efforts Document for details on preparing Good Faith Effort justification. Though these documents are for Construction Contracts, the general information provided is applicable for all contracts. Construction documents can be found at: <https://www.dot.ny.gov/main/business-center/contractors/construction-division/forms-manuals-computer-applications-general-information/civil-rights>

2.3.2.4. Deliverables

All task specific deliverables are defined in **Attachment 13: Detailed Scope of Services**. All records/reports must be in Microsoft Word, Excel, Adobe PDF, or another format acceptable to NYMTC/NYS DOT. Documents must be available when requested by NYMTC/NYS DOT or automatically shared with NYMTC/NYS DOT in electronic format via emailed or managed file transfer (for larger sized documents). Should NYSDOT want to review records pertaining to this contract at the Consultant's office, NYSDOT shall be given access to those files upon reasonable notice.

The Consultant shall maintain all records at a location accessible by NYSDOT staff and in an electronic format acceptable to NYSDOT. Per the contract, all records produced under the contract are property of NYSDOT. Should the work between NYMTC/NYS DOT and the Consultant be terminated, all records shall be turned over to NYMTC/NYS DOT or its designated recipient.

3. Proposal Format and Contents

Electronic Submission: Proposals shall be electronically submitted to the Office of Contract Management (OCM) via the NYS mySend.ny.gov managed file transfer program. Proposers shall send an email to Patricia.Kappeller@dot.ny.gov expressing their intent to submit their Proposal electronically within 14 days of the proposal submission due date. OCM will then send the Proposal an invitation through mySend so the Proposer can upload their RFP submission files to the mySend application and transmit to OCM. Acknowledgement of Proposal receipt via email shall be sent to the Proposer to confirm successful receipt of electronically submitted Proposals. Proposers are advised to provide ample time to address any technology errors prior to the Proposal submission deadline.

Part I shall consist of the Technical Proposal. Part II shall consist of the Cost and Administrative Proposal. Each part of the Proposal must be complete in order that the evaluation of both parts can be accomplished independently and concurrently, and the Technical Proposal can be evaluated strictly based on merit. **Cost information must not be included in the Part I: Technical Proposal.** The Proposal should follow the naming convention and format below.

Each Proposal must be submitted as three (3) files.

Electronic submission file nomenclature:

- Part I: Technical Proposal PDF Document
 - **C004308_FirmName_PartI.pdf**
- Part II: Cost and Administrative Proposal PDF Document
 - **C004308_FirmName_PartII.pdf**
- Attachment 15: Cost Proposal Workbook Excel Format
 - **C004308_FirmName_Attachment14.xlsx**

NOTE: NYSDOT will protect confidential and proprietary information from disclosure to the extent permitted by the Freedom of Information Law (“FOIL”), Article 6 of the Public Officers law. If an offerer, believes information included in their Proposal is confidential and proprietary, it should be identified on those pages of the Proposal which contain such information as “Confidential and Proprietary”. Additionally, offerers need to explain the reason(s) why this information should be considered exempt from public disclosure under FOIL. This information is to be provided in the Cover Letters to Part I and Part II of the Proposal.

NOTE: *Cost information is **NOT** to be included in Part I: Technical Proposal. Technical information is **NOT** to be included in Part II: Cost and Administrative Proposal.*

3.1. Technical Proposal

Part I shall include the following sections:

1. Cover Letter indicating:
Name, address and phone number of the Proposer, and the name, title address, email address and telephone number of the person(s) with authority who may be contacted during the procurement process. Provide a brief description of the approach, work effort, and resulting project. Confidential and proprietary information should also be identified in the cover letter. Not to exceed two (2) pages.

2. Table of Contents

3. Narrative Description

Provide a brief description of the important issues involved in the implementation of this effort. Include enough substantive details to demonstrate an understanding of the project objectives and familiarity with applicable laws, rules, etc. Not to exceed two (2) pages.

4. Experience

The qualifications and prior experience of the Proposers are of great importance to NYSDOT. Direct or prior experience in undertaking transportation related planning studies and Planning and Environmental Linkages studies is highly desirable. Provide a list of projects currently in progress and those completed within the last five (5) years which are relevant to this project. Provide Attachment 11: Key Personnel References for all proposed Key Personnel. Include names, addresses, phone numbers, and email addresses of the contact with the listed clients who can provide variable references. NYSDOT reserves the right to request information from any source so named.

The Key Personnel (as identified in Attachment 12: Contract Job Titles Descriptions & Qualifications proposed by the Proposer are an important factor in the evaluation of the Proposal. Thus, NYSDOT expected that the personnel proposed will be available at the start of the contract term.

In addition, if at any time during the term of the contract a member of the Consultant's Key Personnel needs to be replaced, the Consultant shall have 30 calendar days to submit a qualified candidate (at the same or greater level of experience and expertise) to NYSDOT for approval. The determination that a candidate is "qualified" is the sole discretion of NYSDOT.

5. Approach, Scope of Services, and Schedule

Describe the approach for performing the work and accomplishing project objectives. A detailed scope of services is provided in Attachment 13: Detailed Scope of Services. The approach should be based on the information included in this RFP.

6. Organization and Staffing

Provide an organization chart for the project showing the names of the Proposer's Key Personnel, including subconsultants, if applicable. Provide an organization and staffing plan that describes the specific need for subconsultants, if applicable; the plan for phasing project personnel into the effort; interaction with NYSDOT; and the measures to retain Key Personnel/Supporting Staff, maintaining full staffing, screening and hiring new staff and minimizing staff turnover.

Include an estimate of the total level of effort hours contributed to each of the contract staff titles to each task and an estimate of the total level of effort hours for each task using **Attachment 16: Staffing Table/Level of Effort.**

3.2. Cost and Administrative Proposal

Part II shall consist of the following sections:

1. Cover Letter

Name, address and phone number of the Proposer, and the name, title address, email address and telephone number of the person(s) with authority who may be contacted during the procurement process. Provide a brief description of the approach, work effort, and resulting project. Confidential and proprietary information should also be identified in the cover letter. Not to exceed two (2) pages.

2. Cost Proposal Section

NYSDOT requires that all cost information be presented using Attachment 15: Cost Proposal. The accuracy of information entered into the Cost Proposal Workbook is the sole responsibility of the Proposer. When completing the Cost Proposal Workbook, Proposers shall follow these instructions:

- a. Proposers shall only make entries in the colored cells. Changes should not be made to the Cost Proposal Workbook Format or Formulas. All worksheets included in the Cost Proposal Workbook must be completed in order for the Proposal to be considered complete and responsive to the RFP requirements.
- b. Proposers shall not attach any additional or qualifying information unless specifically instructed to do so.
- c. If the Cost Proposal Workbook requests Fully Loaded Hourly Rates the Proposer must enter a Fully Loaded Hourly Rate for **ALL** Contract Job Titles included and/or additional titles proposed.

- The Fully Loaded Hourly Rate shall be calculated as:

- $A = \text{Direct Labor}$
- $B = \text{Overhead Costs} = \text{Overhead Rate} * \text{Direct Labor}$
- $C = \text{Fixed Fee (Profit)} = \text{Fixed Fee \%} * (A+B)$
- $\text{Fully Loaded Hourly Rate} = A + B + C$

- d. All costs must include the following, unless specifically instructed otherwise:

- All direct and indirect costs, all overhead, fees and profit
- Labor, parts, shipping, material and equipment cost
- Software licensing
- Maintenance services
- Repairs and replacements of major or minor parts as necessary
- Administrative, reporting or other clerical activities
- Travel costs, parking fees, and any other ancillary fees including permits, licenses, insurance, etc.
- Services not explicitly stated in this solicitation, but necessarily attendant thereto as applicable to the associated item for which the rate/fee is being quoted.

- e. Direct Non-Salary Costs

- f. If requested in the Cost Proposal Workbook, a schedule shall list the items of direct non-salary costs (out-of-pocket expenses) to be incurred in the performance of the project for the Prime Consultant and any proposed Subconsultants. Travel, meals, and lodging reimbursements shall be limited to the prevailing maximum rates established by the State Comptroller. The latest state and nationwide rates are available at the following website: <http://www.gsa.gov>

3. Administrative Section

3.1. Vendor Responsibility

In accordance with the NYS Finance Law, NYSDOT will only make contract award to vendors that are determined to be responsive and responsible. All Proposers of contracts valued at \$100,000 or more, and subconsultants with services valued a \$100,000 or more shall be required to submit a Vendor Responsibility Questionnaire through the Office of the State Comptroller at:

<http://osc.state.ny.us/vendrep/index.htm>

3.2. Acceptance of Contract Terms and Conditions

Proposers shall complete and submit Attachment 2: Consultant Information and Attachment 4: Consultant Certification, to indicate their acceptance of all terms and conditions contained in Attachment 1: Draft Contact. Attachment 4 requires the signatures of an official authorized to bind the Proposer to all provisions, a statement certifying that the Proposal shall remain valid for 365 days, a statement that the Proposer accepts the RFP's Detailed Scope of Services "as-is", and a statement, that if awarded the contract, the Proposer will comply with all requirements of the RFP, including all attachments. Altering this form without prior written approval of NYSDOT, is prohibited and may lead to the Proposal being deemed non-responsive and subsequently dismissed.

No exceptions to any of the draft contract terms and conditions will be entertained by NYSDOT. Conditional Proposals will be deemed non-responsive.

3.3. Civil Rights Participation

Complete and submit Attachment 8: Utilization Plan – DBE Participation or Attachment 9: Utilization Plan – MBE/WBE/SDVOB Participation. Submit DBE/MBE/WBE/SDVOB Certifications, as applicable. If applicable Good Faith Effort justification and AAP-10 DBW/MBE/WBE/SDVOB Solicitation Log if advertised goal(s) are not met.

4. Criteria for Evaluation of Proposals

4.1. General

Proposals shall be pre-screened to determine if they meet the minimum RFP responsiveness requirements referenced in Section 1.4. Those which do not shall be deemed non-responsive and shall be removed from further consideration. As part of the pre-screening process, the proposed Civil Rights Participation percentages shall be reviewed. To count towards NYSDOT's participation goal(s), each firm must be currently listed in the NYSUCP (DBE), NYS MWBE Directory of Certified Firms (M/WBE) or NYS OGS Directory of Certified SDVOBs. If the proposed participation is less than the established goal(s) in Section 2.3 the Proposer's evidence of Good Faith Efforts will be reviewed. During the review, which will include verification of a Proposer's Good Faith Effort evidence, if it is determined by NYSDOT that the Proposer did not provide an acceptable Good Faith Effort, then the Proposal will be deemed non-responsive and will be removed from further consideration.

Proposals shall then be evaluated by NYSDOT using a Best Value Method evaluation process based on the technical and cost criteria described below. Technical Proposals will be scored based on the information provided under Section 3.1 and in accordance with the established criteria listed in Section 4.2. The Cost portion of Section 3.2 will be point scored in accordance with the pre-established criteria listed in Section 5.3.

Technical Proposal evaluations will be accomplished by a representative committee comprised, as appropriate, of technical, program and management personnel. Technical Evaluation Committee (TEC) members will score each Proposal individually and then meet as a group to discuss the Proposals. The TEC will be allowed to revise their individual scores on the basis of the group discussion.

Proposers responding to this RFP may be requested to clarify issues or to provide additional insights into their Proposal through written clarifications and/or technical interviews/demonstrations. If written clarifications are required to complete the technical evaluation of Proposals, the TEC will be allowed to revise their technical scores based on this clarifying information. Furthermore, NYSDOT reserves the right to ask clarifying questions regarding each Cost Proposal and DBE/MBW/WBE/SDVOB participation.

NYSDOT reserves the right to request Best and Final Offers (BAFOs) from Proposers that are determined to be mathematically eligible for contact award.

4.2. Technical Proposal Evaluation

The Technical Proposal will be scored and will represent 75% of the total score for a Proposal. The major evaluation criteria are listed below:

Technical Evaluation Criteria	Max Points
Experience of the Firm and Key Personnel	40
Overall quality, extent, and relevance of experience, education and training of key personnel.	25
Overall quality, extent, and relevance of current and prior experience of the firm	15
Quality of Proposal and Approach	35
Quality of the proposed approach to the scope of services and degree to which it reflect an understanding of the project scope and deliverables	25
Reasonableness of staff/task allocations for each task and total effort	10
Total	75

4.3. Cost

The Cost portion of Part II: Cost and Administrative Proposal will be point scored and will represent 25% of the total score for a Proposal. The calculation of a cost score will be based on the following method:

1. The Proposal with the overall total proposed cost will receive the full amount of points.
2. Proposals with higher overall total proposed costs will receive proportionately lower Cost Proposal scores.
3. This point total will be calculated by dividing the lowest proposed Cost Proposal total cost by the total proposed cost of each Proposal, multiplied by the maximum weight for the Cost Proposal 25%.
4. Cost Proposal scoring results shall be used to determine which Proposal are to be shortlisted and/or mathematically eligible for contract award.

4.4. Proposal Shortlisting

This solicitation does not involve shortlisting.

4.5. Technical Demonstrations/Interviews (Optional)

NYMTC/NYS DOT will not hold Technical Demonstrations/Interviews for this solicitation.

4.6. Written Technical Clarifications/Re-Score

NYMTC/NYS DOT reserve the right to seek written clarifications from firms submitting Proposals to assure a full understanding of their responsiveness to the technical requirements. A Proposer may be required to provide written clarifications at any time during the Proposal evaluation process. TEC members will be allowed to revise their written Technical Proposal scores based on receipt and consideration of this clarifying information and follow-up TEC discussions. Reasons for any score changes shall be documented.

4.7. Best and Final Offer (BAFO)

NYSDOT reserves the right to request a Cost Only Best and Final Offer (BAFO) from responsive/shortlisted proposers. Responsive/Shortlisted Proposers have the option to submit or decline to submit a Cost Only BAFO. All responses will be reviewed for responsiveness and Cost Proposal scores will be adjusted accordingly.

4.8. Proposal Withdrawal

Should any firm withdraw their Proposal, NYMTC/NYSDOT will remove the Proposals' technical and cost information from the Best Value evaluation documents and shall recalculate the remaining Proposers' technical and cost scores (without the withdrawn Proposers' information).

4.9. Final Best Value Determination

After evaluation of all information submitted by competing Proposers (i.e., initial written Technical Proposals, written clarifications, and possible BAFOs), the NYMTC/NYSDOT will add the weighted written Technical Proposal scores to the perfected Cost Proposal scores to generate the tentative final best value score by Proposer. Proposers shall be ranked in Final Best Value score order (highest to lowest).

4.10. Consultant Selection and Recommendation and Tentative Contract Award

A Consultant selection and designation memo shall be prepared and forwarded to the applicable NYSDOT Executive Manager(s) with an accompanying evaluation process results report. The memo shall recommend selection of the top-ranked Best Value Consultant(s) for tentative Contract award. The Executive Manager(s) will be asked to concur with the final conclusion of the Proposal evaluation process and designate the Best Value Consultant(s) based on the results.

Should NYMTC/NYSDOT and the Best Value Consultant(s) fail to produce and agreed upon contract(s), then the Executive Manager(s) will designate tentative contract award to the next highest Best Value Consultant. This process may repeat itself until acceptable contract(s) are consummated.

At the conclusion of the evaluation process, an announcement of NYSDOT's designation(s) will be posted on the Department website and on NYMTC's website. All Proposers will be notified in writing regarding the results from the solicitation and will be offered an opportunity to hold a debriefing. The request for a debriefing shall be made to the Department's Designated Representative within 15 calendar days from the date of the designation/non-designation notification. Further, it is expressly understood that this Request for Proposals (RFP) does not commit the Department to award a contract, pay any costs incurred in the preparation of a Proposal to his request, or to procure or contract any services or supplies. Further, the Department shall have no obligation or liability whatsoever to the Consultant selected as a result of this solicitation unless and until a contract satisfactory to the Department is approved and executed by the Consultant and all necessary State officials.

5. Administrative Provisions

5.1. States Rights

All Proposals, upon submission to the Department shall become its property for use as deemed appropriate. By submitting a Proposals, the Proposer covenants not to make any claim for or have any right to damages because of any misinterpretation or misunderstanding of the specification, or because of any misinformation or lack of information. The Department attests to the following prerogatives with regard to Proposals submitted:

1. To accept or reject any or all Proposals;
2. To correct any arithmetic errors in any or all Proposals;
3. To change the Proposal's due date upon appropriate notification to interested firms;
4. To eliminate any mandatory RFP requirement(s) or specification(s) unmet by all Proposers in the evaluation of received Proposals;
5. To adopt any or all of a successful Proposer's Proposal;
6. To negotiate milestone payment schedule and total cost, and contract terms and conditions with the selected Proposer prior to contract award only if it is in the best interest of the State to do so;
7. To disqualify a Proposer from receiving the award if such Proposer, or anyone in the Proposer's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts;
8. To revise/amend any provision of this RFP by written notification to Proposer's prior to Proposal submission;
9. To make inquiries, by means it may choose, into the Proposer's background or statements made in the Proposal to determine the truth and accuracy of all statements made therein;
10. Conduct contract negotiations with the next responsible Proposer, should the Department be unsuccessful in negotiation with the selected Proposer; and
11. Any contract entered into pursuant to an award of this solicitation shall contain a provision which grants the option to extend the terms and conditions of such contract to any other New York State agency. However, any response to this and shall not factor in the possibility that this contract may, in the future, be applicable to other state agencies. Please be advised that any award made pursuant to this solicitation shall be based on the specific requirements of this solicitation only.

5.2. Public Officers Law

The New York State Public Officer's Law (POL) §73 sets forth requirements for "business activities by current and former state employees, officers, and party officers". For purposes of this document, the term "covered person" shall have the definition of any part set forth in Public Officer's Law §73(8.)(a)(i) who is proposed to perform on a NYSDOT contract.

Contractors, consultants, vendors, subconsultants and subcontractors may propose or utilize a covered person, subject to the New York State Public Officer's Law §73. For example, a former NYSDOT or Public Authority employee may be prohibited from conducting work on a NYSDOT contract for a period of 2 years after separation, while others may be subject to a "lifetime bar". Ultimately it is the employee's responsibility to comply with the provisions of the Public Officer's Law related to post-state employment restrictions.

Consultant's Responsibility

If the Consultant proposes a covered person as part of their staff, then prior to designation the consultant must provide the Office of Contract Management a copy of the NYS Commission on

Ethics and Lobbying in Government informal written opinion concerning the application of the two-year and lifetime bar(s) to the individual's proposed activity.

After designation, the Consultant must notify the Department's Consultant's Job Manager or Project Manager of the addition of any covered person to perform services under the Contract.

5.3. Protest Procedures

The New York State Department of Transportation (NYSDOT) has established a protest procedure to be utilized when an interested party challenges a Non-Architecture/Engineering consultant designation by NYSDOT. The complete procedure can be accessed via <https://www.dot.ny.gov/main/business-center/consultants/general-info>.

5.4. Information for the Selected Consultant

1. Registration with NYSDOT

Consultant firms entering into contracts with NYSDOT as prime consultants, joint venture partners, or subconsultants, are required to electronically register their firm using the Consultant Selection System web application (CSSWeb) by creating and registering an account to: 1) create and assign Consultant Identification Numbers (CINs) for each office registered by the firm; 2) provide general firm information including, but not limited to, legal name, Federal Identification Number (FEIN), ownership type, DBE/MBE/WBE/SDVOB status, firm principals, and office(s) address information. All consultant firms designated for a contract award must be registered electronically with NYSDOT prior to that Contract being forwarded to the Office of the State Comptroller for approval. Registered firms are responsible for verifying and updating their registration information during the term of the Contract.

Consultant Firm Registration instructions are available at:

<https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions>

2. Registration with Statewide Financial System (SFS)

Should this solicitation lead to a designation, the Prime Consultant(s) are required to electronically register with the Statewide Financial System(s) – if not already registered. The Department will initiate the registration process in the SFS application and then contact the Prime Consultant to provide them with further direction for completion of the registration process. The results of this process is an established SFS vendor number assigned to the Prime Consultant. If a firm has already registered in SFS in conjunction with another procurement, it will not likely need to be registered for this opportunity. However, a SFS vendor number is firm name specific. Since many firms have different variations of their business identifies, firms will be required to register in the name of the business entity that the Department is doing business with.

<https://www.ocs.stsate.ny.us/state-vendors>

3. Consultant Employment Disclosure Requirements

During contractual performance, the Consultant must comply with Executive Order 162, **ENSURING PAY EQUITY BY STATE CONTRACTORS**, dated January 9, 2017. Please refer to

<https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions> under the heading **Executing Order 162, Ensuring Pay Equity by State Contractors, Reporting Requirement** for further information.

4. Insurance Requirements

Please carefully read the terms and conditions of the draft contract appended as Attachment 1 of this RFP. Your attention is drawn to the insurance requirements for this project that are contained in Article 13 of the draft contract. These insurances which are mandatory for this solicitation are included in Attachment 13: Detailed Scope of services, are mandatory for the firm(s) selected as a result of this solicitation and will not be waived.

5. Contractor Tax Certification

Per section 5-a of the New York State Tax Law, all vendors selected for contracts in excess of \$100,000 for the sale of goods or services must complete and submit forms ST-220-CA and ST-220-TD (Contractor Certifications). The forms and instructions are available at: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf (Form ST-220-CA) and http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf (Form ST-220-TD).

6. Executive Order No. 177 Certification (Attachment 5)

In accordance with Executive Order No. 177, the Consultant will be required to certify that it does not have institutional practices that fail to address Human Rights Law. The completed and signed certification must be returned with the Consultant's executed contract.

7. Executive Order 16 Certification (Attachment 6)

In accordance with Executive Order No. 16, the Consultant will be required to certify that it does not violate EO-16 by Conducting Business in Russia. The completed and signed certification must be returned with the Consultant's executed contract.

Attachment 1: Draft Contract

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

COMPTROLLER'S CONTRACT: C004308

PROJECT: Northern Westchester East-West Corridors Study

This Contract made pursuant to Section 14 of the Transportation Law, by and between THE PEOPLE OF THE STATE OF NEW YORK (hereinafter referred to as the "STATE") acting by and through the Department of Transportation (hereinafter referred to as the "DEPARTMENT" or "NYSDOT") whose office is at 50 Wolf Rd, Albany, NY 12232, and

Consultant Firm Name

Consultant Firm Address

Consultant Firm Address

(hereinafter referred to as the "Consultant")

WITNESSETH:

WHEREAS, the DEPARTMENT desires the CONSULTANT because of its ability and reputation, to perform the services hereinafter mentioned upon the PROJECT which is fully described in SCHEDULE A and the CONSULTANT agrees to provide these services.

NOW, THEREFORE, the parties hereto, for the consideration hereinafter named, do agree as follows:

ARTICLE 1 – PERFORMANCE OF WORK

The CONSULTANT shall perform all of the work described in SCHEDULE A and cause such work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this CONTRACT. The CONSULTANT shall perform the work in accordance with professional standards and with the diligence and skill expected of a company with extensive experience in the performance of work of the type described in SCHEDULE A. The CONSULTANT shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the work in accordance with this CONTRACT. The CONSULTANT'S Project Manager shall have the responsibility for the overall supervision and conduct the work on behalf of the CONSULTANT and that the persons described in SCHEDULE A shall serve in the capacities described herein. Any change of key personnel by the CONSULTANT shall be subject to the prior written approval of the STATE. The STATE reserves the option to extend the terms and conditions of this CONTRACT to any other state agency in New York subject to the approval of all necessary state officials.

The CONSULTANT shall commence work no later than ten (10) calendar days after receiving notice to proceed from the DEPARTMENT.

ARTICLE 2 – DOCUMENTS FORMING THE CONTRACT

The CONTRACT documents shall be deemed to include this AGREEMENT (including Exhibits), the provisions required by state and federal law to be inserted in the CONTRACT as set forth in Appendix A, Appendix B, Appendix C, Appendix D, Schedule A (including Exhibits), Schedule B (including Exhibits), the DEPARTMENT’S Request for Proposals (RFP, dated [REDACTED], including any modifications) incorporated by reference, and the CONSULTANT’S Proposal (dated [REDACTED], including any clarifications) incorporated by reference.

ARTICLE 3 – ORDER OF PRECEDENCE

In the event of any inconsistencies between or among the provisions and contents of this CONTRACT, it is agreed that such inconsistency shall be resolved in the following descending order of precedence:

1. The applicable provisions required by state and federal law to be inserted in the CONTRACT as set forth in Appendix A;
2. APPENDIX B, APPENDIX C, and APPENDIX D;
3. This CONTRACT, including Signature Page, Notary Page, and Exhibits;
4. SCHEDULE A (including Exhibits);
5. SCHEDULE B (including Exhibits);
6. The STATE’S Request for Proposals (including any modifications); and
7. The CONSULTANT’S Proposal.

ARTICLE 4 – TERM OF THE CONTRACT

The CONSULTANT agrees to complete all work of this CONTRACT as required within a 36 month base term, which shall commence on [REDACTED] and end on [REDACTED]. The CONTRACT may be extended for up to one (1) one-year periods as may be agreed by the parties to the CONTRACT and as approved by the Office of the State Comptroller (OSC).

ARTICLE 5 – MAXIMUM AMOUNT PAYABLE

Item I – The maximum aggregate amount payable by the STATE to the CONSULTANT hereunder for the performance and completion of the work is \$[REDACTED] unless increased by a CONTRACT AMENDMENT. It is understood and agreed that the STATE will only reimburse the CONSULTANT for approved costs incurred in the performance of authorized project tasks.

Item II – The CONSULTANT specifically agrees that the CONTRACT shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the STATE beyond the monies available for the purpose.

ARTICLE 6 – CONTRACT PAYMENT

The CONSULTANT shall provide complete and accurate billing invoices to the STATE in order to receive payment. Billing invoices submitted to the STATE must contain all information and supporting documentation required by the Contract, the STATE and the Office of the State Comptroller (OSC). Payment will only be rendered electronically, unless payment by paper check is expressly authorized by the New York State Department of Transportation Commissioner, in the COMMISSIONER’S sole discretion,

due to extenuating circumstances. Such electronic payment will be made in accordance with ordinary State procedures and practices from the Statewide Financial System (SFS). The CONSULTANT shall comply with OSC's procedures to authorize electronic payments. A CONSULTANT, who has not previously performed work for New York State, shall complete a substitute Form W9 for processing by the Department in order to obtain an SFS Vendor ID. After obtaining an SFS Vendor ID, the CONSULTANT will receive an email from SFS with information that includes a link to the payment portal to track and manage payments. For questions regarding electronic payments, the CONSULTANT should contact SFS at (518) 457-7717 or (855) 233-8363. The CONSULTANT will not receive payment on under this contract if it does not comply with the State Comptroller's electronic payment procedures, except where the COMMISSIONER has expressly authorized payment by paper check as set forth above.

ARTICLE 7 – PROVISION FOR PAYMENT

The State shall pay to the CONSULTANT and the CONSULTANT agrees to accept as full compensation for its services under this CONTRACT:

Item I – The CONSULTANT specifically agrees that the CONTRACT shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the STATE beyond monies available for the purpose. In no event, however, will monies be deleted from this CONTRACT except pursuant to ARTICLE 17 hereof, entitled Termination.

Item II – If the CONTRACT is extended beyond [REDACTED] (enter end date from Article 4) then all salary rates shown in SCHEDULE B, Exhibit [REDACTED] may be adjusted annually by the lower of either the percent change for the Producer Price Index – Architectural, Engineering and Related Services (Series ID PCU5413—5416) for the most recent 12-month period as calculated by the U.S. Department of Labor – Bureau of Labor Statistics, or 2.5%, whichever is lower, all depending upon current market conditions. If at any time the above Index Series ID is discounted or becomes unavailable, the STATE reserves the right to implement a comparable Index.

ARTICLE 8 – PARTIAL PAYMENTS

The CONSULTANT shall be paid in progress payments based on allowable costs incurred during the period in accordance with Article 7 of this CONTRACT.

The STATE will make payments to the CONSULTANT in accordance with Section 179(f) of the State Finance Law. Payments are subject to the approval of NYSDOT. Payments shall not be withheld unreasonably.

The CONSULTANT shall maintain and update once each month, if changes have taken place or are anticipated, the Project Schedule contained in SCHEDULE A.

The CONSULTANT shall inform the STATE and all subcontractors/subconsultants of the CONSULTANT'S schedule for submitting monthly vouchers to the STATE, said schedule shall be strictly adhered to by the CONSULTANT.

The CONSULTANT will not include any provisions in their subcontracts that would circumvent the intent of 49 CFR 26.29 to require the CONSULTANT to make partial payments to subcontractors/subconsultants within ten (10) calendar days after receipt of payment from the STATE.

All subcontractor and subconsultant vouchers received by the CONSULTANT at least ten (10) calendar days prior to a scheduled billing, shall be included in that billing, even if the CONSULTANT does not have other costs to be billed for that period. The CONSULTANT shall inform the subcontractor or subconsultant of the date the voucher was submitted to the STATE and the amount included for the subcontractor or subconsultant.

ARTICLE 9 – FINAL PAYMENT

Section 179 of the State Finance Law required the STATE to make final payment within thirty (30) calendar days after receipt of an invoice which is properly prepared and submitted. The STATE in accordance with the provisions of State Finance Law has determined that the STATE will require a sixty (60) calendar day audit period for final payments at which time the 30-calendar day interest-free period will commence. The CONSULTANT is required to make final payment to all subcontractors/subconsultants within ten (10) calendar days of receipt of final payment from the State.

The acceptance by the CONSULTANT of the final payment shall operate as and shall be a release to the STATE from all claims and liability to the CONSULTANT, its representatives and assigns for any and all things done, furnished for or relating to the services rendered by the CONSULTANT under or in connection with this CONTRACT or for any part thereof except as otherwise provided in the paragraph below.

The CONSULTANT shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and make such materials available at its office at all reasonable times during the term of this CONTRACT and for the period of time specified in Clause No. 10., "Records" of APPENDIX A, for inspection by the STATE, Federal Highway Administration (FHWA), or any authorized representatives of the Federal Government and copies thereof shall be furnished if requested.

ARTICLE 10 – INSPECTION

The duly authorized representatives of the STATE, and on Federally aided projects, representatives of the Federal Highway Administration (FHWA), shall have the right, at all times, to inspect the work of the CONSULTANT.

ARTICLE 11 – EXTRA WORK

If the CONSULTANT believes that any work is, or may be, beyond the scope of the CONTRACT (extra work), or that additional work is necessary, the CONSULTANT shall notify the STATE, in writing of this fact prior to beginning any work. The notification shall include all information required by the DEPARTMENT. The STATE shall be the sole judge as to whether or not such work is in fact beyond the scope of this CONTRACT and constitutes extra work. No extra or additional work shall be started prior to written authorization from the STATE. The STATE shall be under no obligation to reimburse the CONSULTANT for any extra or additional work performed without the prescribed notification and authorization. The STATE will not allow fixed fee for any extra work undertaken without prescribed

notification and authorization. In the event that the STATE determines that such work does constitute extra work, the STATE shall provide extra compensation to the CONSULTANT in a fair and equitable manner. If necessary, a CONTRACT AMENDMENT providing the compensation and describing the work authorized shall be issued by the STATE to the CONSULTANT for execution after approval have been obtained from necessary STATE officials, and if required, from the Federal Highway Administration.

In the event of any claims being made or any actions being brought in connection with the PROJECT, the CONSULTANT agrees to render the STATE all assistance required by the STATE. Compensation for work performed and costs incurred in connection with this requirement shall be made in a fair and equitable manner. In all cases provided for in this CONTRACT for the additional services above described, the STATE's directions shall be exercised by the issuance of a separate contract, if necessary.

ARTICLE 12 – CONSULTANT LIABILITY

To the fullest extent permissible by law, the CONSULTANT shall indemnify and save harmless the STATE, and any municipality, public benefit corporation, railroad, and/or public utility whose property or facilities are affected by the work, from suits, claims, actions, damages and costs, of every name and description arising from the work under its contract during its prosecution and until the final acceptance thereof. The CONSULTANT and any assigns, heirs, or successors in interest shall also indemnify and save harmless, to the fullest extent permitted by law, the inspecting engineer or inspector working for the STATE relative to the PROJECT from suits, claims, actions, damages and costs involving personal injury and property damage arising from the CONSULTANT'S work under the CONTRACT during its prosecution and until the final acceptance thereof. The STATE may retain such monies from the amount due the CONSULTANT as may be necessary to satisfy any claim for damages recovered against the STATE, any municipality and/or public benefit corporation, railroad, or public utility whose property or facilities are affected by the work or consultant inspecting engineers or inspectors working for the STATE relative to the PROJECT. The CONSULTANT'S obligation under this paragraph shall not be deemed waived by the failure of the STATE to retain the whole or any part of such monies due the CONSULTANT, nor where such suit, action, damages and/or costs have not been resolved or determined prior to release of any monies to the CONSULTANT under the CONTRACT, nor shall such obligation be deemed limited or discharged by the enumeration or procurement of any insurance for liability for damages imposed by law upon the CONSULTANT, Subconsultant or any municipality and/or public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, or for any consultants working for the STATE. It is understood by the STATE and the CONSULTANT that the CONSULTANT'S Professional Liability/Errors and Omissions Policy required in the Article 13 -Insurance of this CONTRACT shall be utilized for claims involving the CONSULTANT'S professional negligence.

The CONSULTANT has the obligation, at its own expense, for the defense of any action or proceeding which may be brought against the parties specified in this Section. This obligation shall include the cost of attorney's fees, disbursements, costs, and other expenses incurred in connection with such action or proceeding. Such obligation to indemnify in the foregoing paragraph does not extend to those suits, action, damages and costs of every name that arise out of this sole negligence of the STATE, or negligence of any municipality and/or public benefit corporation, railroad, or public utility whose property or facilities are affected by the contract work, or the negligence of any consultants working for the STATE, their agents or employees, relative to the construction, alteration, or repair or maintenance of a building, highway, or structure or appurtenances and appliances thereof including moving, demolition and excavating connected therewith. Notwithstanding the foregoing, the parties being

defended by the CONSULTANT may elect to join any action or tender their own defense, at their sole expense and discretion.

ARTICLE 13 – INSURANCE

The Consultant shall procure, at its own sole cost and expense, and shall maintain in force at all times during the term of this contract including any extensions or renewals until satisfactory completion of all work under the contract, the policies of insurance covering all operations under the contract whether performed by it or its Subconsultants as herein set forth, written by companies authorized by the New York State Department of Financial Services to issue insurance in the State of New York and that have an A.M. Best Company rating of (A-) or better or approved by the Department. The Department may, at its sole discretion, release the Consultant from the requirement to provide certain specified types of insurance if the Department determines that the Work related to that specific type of insurance (i.e., Railroad Protective Liability, Marine Protection & Indemnity) has been satisfactorily completed, therefore obviating the utility of the required insurance. The Department may, at its sole discretion, permit the placement of policies with a non-authorized carrier or carriers upon request by the Consultant accompanied by the documentation required by 11 NYCRR §27.0 *et seq.* provided that nothing herein shall be construed to require the Department to accept insurance placed with a non-authorized carrier under any circumstances. The Consultant shall deliver to the Department evidence of such policies as the Department deems necessary to verify that the required insurance is in effect.

A. Conditions Applicable to Insurance. All policies of insurance required by this agreement must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the Consultant are specified in Paragraph B, Insurance *Requirements*, below. General liability insurance shall apply separately on a per-job or per-project basis. Unless otherwise indicated, the required limits of liability for any insurance may be secured through any satisfactory combination of primary and/or excess /umbrella policies.

2. Policy Forms. Except as may be otherwise specifically provided herein or agreed in writing by the Department, policies must be written on an **occurrence** basis. In the event that occurrence-based coverage is not commercially available, claims-made policy forms will be considered provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three (3) years with respect to events that occurred but were not reported during the term of the policy. ***Insurance policies that remove or restrict blanket contractual liability located in the “insured contract” definition (as stated in Section V, Number 9, Item f in the ISO CGL policy) or that remove or modify the “insured contract” exception to the employer’s liability exclusion so as to limit coverage for claims that arise out of contract work, or that do not cover the additional insured for claims involving injury to employees of the named insured or Subconsultants, are not acceptable.*** Policy forms must be provided to the Department upon request.

3. *Certificates of Insurance/Notices.* Consultant shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Department, before commencing any work under this contract. Certificates or transmittal correspondence shall reference the NYSDOT Contract Number. Consultant is strongly encouraged to transmit certificates and other materials concerning insurance coverage, referencing the NYSDOT Contract -Number and the name of the Consultant in the Subject Line, by email to:

Insur.consult.contr@dot.ny.gov

Certificates may be mailed to the:

**New York State Department of Transportation
Office of Contract Management
50 Wolf Road, Sixth Floor
Albany, NY 12232**

Unless otherwise agreed, policies shall be written so as to require that the policy will not be (i) canceled, (ii) materially changed or (iii) permitted to expire or lapse for any reason except upon ten (10) days' prior written notice to the Department by Certified Mail, Return Receipt Requested at the address stated above. In addition, if required by the Department, the Consultant shall deliver to the Department within ten (10) work days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete. Certificates of Insurance shall:

- a. Be in a form satisfactory to the Department. The ACORD 25 Certificate must be accompanied by an ACORD 855 "New York Construction Addendum" completed to indicate information about the liability insurance.
- b. Be signed and dated by an authorized representative of the insurance carrier or producer.
- c. Disclose any deductible, self-insured retention, aggregate limit.
- d. Refer to this Contract by number on the face of the certificate.

If at any time during the term of this contract, it shall come to the attention of the Department that required insurance is not in effect or that adequate proof of insurance has not been provided, the Department may, at its sole discretion:

- a. Direct the Consultant to suspend work and not re-enter the premises, allocating no additional payment or extension of time due on account thereof, or
- b. May withhold further payments, or

- c. Treat such failure as a breach or default of the contract.

4. Additional Insureds. All insurance policies required by this agreement, except workers' compensation, disability, and professional liability shall be endorsed to provide coverage to **"The State of New York/New York State Department of Transportation, any municipality in which the work is being performed, any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, and any consultants working for or on the project, and their agents or employees"** with respect to any claim arising from the Consultant's Work under this contract or as a result of the Consultant's operations. The coverage for parties required to be "additional insureds" shall be effected by endorsement of the applicable policy using the following ISO forms, or such forms providing equivalent coverage.

ISO form CG 20 10 04 13, CG 20 33 10 01, CG 20 33 07 98 when used in combination with CG 20 37 07 04, CG 20 37 04 13, CG 20 38 04 13 and CA 20 48 10 13.

5. Primary Coverage. The liability and protective liability insurance policies shall provide primary and non-contributory coverage to the Department for any claim arising from the Consultant's Work under this contract, or as a result of the Consultant's activities.

6. Waiver of Subrogation. As to every type and form of insurance coverage required from the Consultant, there shall be no right of subrogation against **the State of New York/New York State Department of Transportation, its agents or employees**. To the extent that any of Consultant's policies of insurance prohibit such a waiver of subrogation, Consultant shall secure the necessary permission to make this waiver.

7. Policy Renewal/Expiration. At least ten (10) calendar days prior to the expiration of any policy required by this contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the Department than the expiring policies shall be delivered to the Department in the manner required for service of notice in Paragraph A.3. *Certificates of Insurance/Notices* above.

8. Self-Insured Retention/Deductibles. Consultants utilizing self-insurance programs are required to provide a description of the program for Department approval. Collateralized deductible and self-insured retention programs administered by a third party may be approved. Except as may be specifically provided in the Contract Documents of a particular project, the Consultant or third-party-administered insurance deductible shall be limited to the amount of the bid deposit or \$100,000, whichever is less. Security is not required if it is otherwise provided to an administrator for an approved risk management program. The Department will not accept a self-insured retention program without security being posted to assure payment of both the self-insured retention limit and the cost of adjusting claims. The Consultant shall be solely responsible for all claim expense and loss payments within

any permitted deductible or self-insured retention. If the Consultant's deductible in a self-administered program exceeds the amount of the bid deposit, the Consultant shall furnish an irrevocable Letter of Credit as collateral to guarantee its obligations. Such Letter of Credit or other collateral as may be approved by Department must be issued by a guarantor or surety with an AM Best Company rating of (A -) or better. If, at any time during the term of this agreement, the Department, in its sole discretion, determines that the Consultant is not paying its deductible, it may require the Consultant to collateralize all or any part of the deductible or self-insured retention on any or all policies of insurance or, upon failure to promptly do so, the same may be withheld from payments due the Consultant.

9. Waiver of Indemnities. The Consultant waives any right of action it and/or its insurance carrier might have against the Department (including its employees, officers, commissioners, or agents) for any loss that is covered by a policy of insurance that is required by this contract. The Consultant waives any right of action it and/or its insurance carrier might have against the Department (including its employees, officers, commissioners, or agents) for any loss, whether or not such loss is insured.

10. Subconsultant's Liability Insurance. In the event that any portion of the work described in this contract is performed by a subconsultant, the applicable insurance requirements of this contract shall be incorporated into the Consultant's subcontract or agreement. Subconsultant insurance requirements shall include Workers' Compensation, Disability, Commercial General Liability, and, if applicable, Commercial Auto and/or Professional Liability. Excess or umbrella insurance is not required for subconsultants.

B. Insurance Requirements. The types of insurance and minimum policy limits shall be as follows:

1. Workers' Compensation. (*Applicable to all contracts*). For work to be performed in New York State, as required by State Finance Law §142 and Workers' Compensation Law Section 57, the Consultant shall maintain in force workers' compensation insurance upon forms required by or acceptable to the Workers Compensation Board for all of Consultant's employees.

Evidence of Workers' Compensation and Employers Liability coverage shall be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

- (1) C-105.2 (September 2007 or most current version) – Certificate of Workers' Compensation Insurance;
- (2) U-26.3 – Certificate of Workers' Compensation Insurance from the State Insurance Fund;
- (3) GSI-105/SI-12 – Certificate of Workers' Compensation Self Insurance; or

- (4) CE-200 – Certificate of Attestation of Exemption (When Consultant meets the requirements).

All forms are valid for one year from the date the form is signed / stamped, or until policy expiration, whichever is earlier.

2. Disability. (*Applicable to all contracts*). For work to be performed in New York State, as required by Workers' Compensation Law Section 220 (8), the Consultant shall provide and maintain coverage during the life of the related contract for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the Agency and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman of the Workers' Compensation Board.

- (1) DB-120.1 (May 2006 or most current version) – Certificate of Insurance Coverage under the New York State Disability Benefits Law;
- (2) DB-155 – Certificate of Disability Self Insurance; or
- (3) CE-200 – Certificate of Attestation of Exemption.

All forms are valid for one year from the date the form is signed / stamped, or until policy expiration, whichever is earlier.

3. Commercial General Liability (CGL). (*Applicable to all contracts*). The Consultant shall maintain a Commercial General Liability policy or policies, on an occurrence form, insuring against liability arising from premises (including loss of use thereof), personal injury or death, advertising injury, liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of Consultant. Such coverage shall be written on an ISO occurrence form (ISO Form CG 00 01 12 07 or a policy form providing equivalent coverage) in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**. Unless otherwise provided, the policy or policies of insurance providing the liability coverage shall include:

- a. **Coverage for contractual liability assumed by the Consultant insured under an insured contract (including the tort liability of another assumed in a business contract).**
- b. **All insurance policies required by this contract, except workers' compensation, disability, and professional liability, shall be endorsed to provide coverage to "the State of New York / New York State Department of Transportation, any municipality in which the work is being performed,**

any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, and any consultants working for or on the project, and their agents or employees” with respect to any claim arising from the Consultant’s Work under this contract or as a result of the Consultant’s operation using ISO forms, or such forms providing equivalent coverage: ISO form CG 20 10 04 13, CG 20 33 10 01, CG 20 33 07 98 when used in combination with CG 20 37 07 04, CG 20 37 04 13, CG 20 38 04 13, and CA 20 48 10 13.

- c. ***Where contract work will be performed by unregistered off-road equipment, Consultant shall provide documentation of a blanket Pollution Liability policy, or an endorsement to cover short-term pollution events, ISO form CG 04 33 10 01 or equivalent.***
- d. ***Coverage for claims for bodily injury asserted by an employee of an additional insured and any Employer Liability Exclusion which may otherwise operate to exclude such coverage shall be voided in this respect.***

4. Commercial Automobile including liability and required coverage for New York. *(Applicable to all contracts).* The Consultant shall maintain a commercial or other automobile policy or policies insuring against liability for bodily injury, death, or damage to property and other mandatory coverages, relating to the use, operation, loading or unloading of any of Consultant’s automobiles (including owned, hired and non-owned vehicles) on and around the project. This shall be ISO form CA 00 01 10 01, CA 00 01 01 87 or a policy form providing equivalent coverage along with mandatory New York endorsements. If the contract involves the removal of hazardous waste or otherwise transporting hazardous materials, pollution liability coverage for covered autos shall be provided by form CA 99 48 03 06 or CA 00 12 03 06 and the Motor Carrier Act Endorsement (MCS90) shall be attached. Coverage shall be in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts.**

5. Umbrella or Excess Liability. *(Applicable to all contracts).* When the limits of the CGL, Auto, and/or Employers’ Liability policies procured are insufficient to meet the limits specified, the Consultant shall procure and maintain Commercial Umbrella and/or Excess Liability policies with limits in excess of the primary; provided, however, that the total amount of insurance coverage is at least equal to the requirements set forth, and shall be sufficient to provide, when combined with the Commercial General Liability, no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts.** The policy or policies shall provide insurance insuring against liability arising from premises (including loss of use thereof), operations, independent Contractors, products-completed operations, personal injury and advertising injury, and liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of Consultant or arising from automobile liability as described above. Such coverage shall be written on an ISO occurrence form CU 00 01 12 07 or a policy form providing equivalent coverage.

6. Special Protective and Highway Liability. *(Applicable to all contracts where work occurs in a state highway).* The Consultant shall maintain, separate and apart from its umbrella policy,

a policy issued to and covering the liability of the People of the State of New York; The State of New York; the Commissioner of Transportation; all employees of the Department of Transportation; any municipality in which the work is being performed; and any public benefit corporation, railroad, or public utility whose property or facilities are affected by the Work, against damages that the insureds may be held legally liable to pay for property damage, personal injuries, or death that is caused by any occurrence that takes place within any location where work is to be or is being performed by Consultant, including at the location of any of the Work. This should be ISO form CG 00 14 12 or a policy form providing equivalent coverage along with mandatory New York endorsements. Coverage shall be in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**.

7. Professional Liability / Errors and Omissions. *(Applicable to professional services requiring the signature, stamp or certification of a licensed professional, including, without limitation, erection plans, demolition plans, containment plans, coffer dams, and temporary sheeting).* The Consultant shall maintain at its own expense or shall require to be maintained, such insurance as is customary to compensate the Department for any claims or losses that occur because of Consultant's errors, omissions, malpractice or breach of professional obligations. Such policy or policies may be written on a claims-made form so long as coverage is maintained to be in effect to cover claims arising from the performance of services under this contract. Said coverage may be subject to a deductible or self-insured retention level of no more than \$250,000 subject to approval by the Department, such approval not to be unreasonably withheld, except that it is also agreed that the Department may withhold payment for services rendered under this contract in the event, and to the extent of any deductible in the event that a claim is asserted. Such coverage shall be written on a claims-made basis (or a policy form providing equivalent coverage) in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**.

8. Railroad Protective Liability. *(Applicable to any work where the consultant is working within 50 feet of a Railroad or entering the railroad right-of-way, independent of a construction contract).* The Consultant shall maintain a railroad protective liability policy of insurance in the name of the affected railroad and with limits of coverage as specified in the Project Assumptions – Insurance Requirements, or if no limits of coverage are specified, in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**. The aggregate limit shall apply separately to each annual period. Said policy shall be subject to the approval of the railroad and comply with 23 CFR 646 Subpart A.

9. Marine Protection & Indemnity. *(Applicable to any Work performed on a navigable waterway using barges or other watercraft or necessitating the use of a rescue boat / skiff).* Anytime the activity involves work on or over navigable water or the Work is connected to water related activities, Marine Protection & Indemnity and Hull and Machinery coverage is required. Hull and Machinery coverage shall be provided for the total value of the watercraft or equipment. The Consultant shall maintain at its own expense, or shall require to be maintained, Protective and Indemnity Liability insurance for all marine operations under the Agreement in an amount no less than the minimum coverage as set forth in **C. Table of**

Minimum Insurance Requirements for Consultant Contracts. The policy shall be endorsed to add the Department as an Additional Insured. Any coverage required within this subsection may be satisfied by the CGL and Excess policies, or endorsement thereto, only when total coverage meets or exceeds the sum of the individual coverages had each been procured separately.

10. Pollution Liability. (Applicable where the Consultant will employ mobile equipment or tanks; facilities for fueling vehicles or equipment on-site; or where the work involves the handling or removal of any contaminant, including but not limited to asbestos or lead paint or petroleum products including the abatement or removal of such materials, or some other identified environmental condition). The Consultant shall maintain at its own expense, or shall require to be maintained, either through an endorsement to a commercial general liability policy or through a separate policy not to be combined with any other coverage, insurance protecting Consultant and the Department from the liability and financial loss relating to Consultant's contamination of soil and the accidental release of petroleum products, chemicals and/or toxic gases from broken pipelines, utilities and stationary and mobile fuel tanks that can result from Consultant's operations. Such coverage shall be written on policy form providing coverage for contamination both on and off the leased premises and shall provide coverage in an amount no less than the minimum coverage as set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**.

11. Unmanned Aircraft Systems Liability. (Applicable where the Consultant is required to or chooses to utilize unmanned aircraft systems or "drones" for any purpose related to contract work or within the contract limits). Unmanned Aircraft Systems Liability will be required whenever the contracted work includes, or the Consultant utilizes, the operation of an Unmanned Aircraft System. The Consultant shall maintain at its own expense, or shall require to be maintained, an Aviation Liability Insurance Policy covering the liability of the operator for bodily injury, property damage, and personal injury arising from all operation in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**. A certificate of insurance demonstrating proof of coverage is required. The proof of coverage shall include Additional Insured Endorsements, 30-Day Notice of Cancellation Endorsements and Waiver of Subrogation Endorsements.

C. Table of Minimum Insurance Requirements for Consultant Contracts

TABLE OF MINIMUM INSURANCE REQUIREMENTS FOR CONSULTANT CONTRACTS ¹				
INSURANCE TYPE	CONTRACT VALUE			
	\$0 - \$10,000,000	\$10,000,000.01 - \$20,000,000	\$20,000,000.01 - \$100,000,000	Over \$100,000,000
Commercial General Liability (CGL)	\$1 million per occurrence; \$2 million aggregate ²	\$1 million per occurrence; \$2 million aggregate ²	\$1 million per occurrence; \$2 million aggregate ²	\$1 million per occurrence; \$2 million aggregate ²
Commercial Automobile	\$1 million per accident	\$1 million per accident	\$1 million per accident	\$1 million per accident

TABLE OF MINIMUM INSURANCE REQUIREMENTS FOR CONSULTANT CONTRACTS ¹				
INSURANCE TYPE	CONTRACT VALUE			
	\$0 - \$10,000,000	\$10,000,000.01 - \$20,000,000	\$20,000,000.01- \$100,000,000	Over \$100,000,000
Umbrella or Excess Liability	At least \$6 million when combined with CGL ²	At least \$9 million when combined with CGL ²	At least \$13 million when combined with CGL ²	At least \$20 million when combined with CGL ²
Special Protective and Highway Liability	\$1 million per occurrence; \$2 million aggregate	\$1 million per occurrence; \$2 million aggregate	\$2 million per occurrence; \$4 million aggregate	\$2 million per occurrence; \$4 million aggregate
Professional Liability / Errors and Omissions	Design Build \$2 million per occurrence; \$2 million aggregate	Design Build \$2 million per occurrence; \$2 million aggregate	Design Build \$3 million per occurrence; \$3 million aggregate	Design Build \$4 million per occurrence; \$4 million aggregate
	Design Bid Build \$1 million per occurrence; \$1 million aggregate	Design Bid Build \$1 million per occurrence; \$1 million aggregate	Design Bid Build \$1 million per occurrence; \$1 million aggregate	Design Bid Build \$1 million per occurrence; \$1 million aggregate
Railroad Protective Liability	\$2 million per occurrence; \$6 million aggregate	\$2 million per occurrence; \$6 million aggregate	\$2 million per occurrence; \$6 million aggregate	\$2 million per occurrence; \$6 million aggregate
Marine Protection & Indemnity	\$1 million	\$1 million	\$1 million	\$1 million
Pollution Liability	\$1 million per occurrence; \$1 million aggregate	\$1 million per occurrence; \$1 million aggregate	\$1 million per occurrence; \$1 million aggregate	\$1 million per occurrence; \$1 million aggregate
Unmanned Aircraft Systems Liability	\$1 million per occurrence	\$1 million per occurrence	\$1 million per occurrence	\$1 million per occurrence

¹ Document Titled **Project Assumption – Insurance Requirements** in Attachment 13: Detailed Scope of Services modifies the mandatory insurance coverages. Any insurance invoked by an assignment shall provide coverage under this Agreement; separate policy limits are not required for each assignment.

² Insurance afforded to additional insureds shall not be limited by contractual minimum coverage requirements when insurance limits stated in the Certificate of Insurance or Declarations exceed minimum coverage.

D. Consultant's Risks. The Consultant shall be responsible for obtaining any insurance it deems necessary to cover its own risks, including without limitation: (a) business interruption, such as gross earnings, extra expense, or similar coverage, (b) personal property, and/or (c) automobile physical damage and/or theft. In no event shall the Department be liable for any damage to, or loss of, personal property, business interruption, lost income, lost wages, or damage to, or loss of, an automobile, even if such loss is caused by the negligence of the Department.

ARTICLE 14 – INTERCHANGE OF DATA

All technical data in regard to the PROJECT existing in the office of the STATE or existing in the offices of the CONSULTANT shall be made available to the other party to this CONTRACT without expense to such other party.

ARTICLE 15 – DISPOSITION OF DATA

At the time of completion of the work, the CONSULTANT shall make available to the STATE all documents and data pertaining to the work or to the PROJECT which materials at all times shall be the property of the STATE. It is agreed that the CONSULTANT may maintain copies of all documents and data. Or in the event that this CONTRACT is terminated for any reason, then, within ten (10) calendar days after such termination, the CONSULTANT shall make available to the STATE the aforementioned data and material.

ARTICLE 16 – DAMAGES AND DELAYS

The CONSULTANT agrees that no charges or claim for damages shall be made by them for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this CONTRACT. Such delays or hindrances, if any, shall be compensated for by extension of time for such reasonable period as the STATE may decide, it being understood however, that the permitting of the CONSULTANT to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the STATE of any of its rights herein. Nothing in this ARTICLE will prevent the CONSULTANT from exercising its right under ARTICLE 9 of this CONTRACT.

ARTICLE 17 – NOTICE OF BANKRUPTCY, VENUE, AUDITS

If, prior to final audit, CONSULTANT files for relief pursuant to Title 11 of the United States Code under Bankruptcy Laws or a successor statute, this CONTRACT shall be treated as an executory contract under 11 USC S365 of the Bankruptcy Laws or successor statute, and subject to assumption or reject by the debtor within the time permitted by law.

The CONSULTANT must immediately send written notice to the Office of Contract Management of the New York State Department of Transportation at its main office in Albany, NY and send all relevant pleading of the voluntary or involuntary filing of a Bankruptcy proceeding by the CONSULTANT, its subsidiary, its principals and officers or a related entity whether or not the CONSULTANT believes that any debt is owed to the STATE by final audit or otherwise.

The determination of any rights under this CONTRACT shall be adjudicated in a State or Federal Court with jurisdiction over the matter, and venue for the determination of such rights shall be in Albany, NY.

The CONSULTANT agrees that the automatic stay under 11 USC §362 or a successor statute shall be deemed inapplicable or that this agreement shall constitute consent to the lifting of the stay with respect to the State's performance of or completion of any audit pursuant to the terms of this CONTRACT.

ARTICLE 18 – TERMINATION

The STATE shall have the absolute right to terminate this CONTRACT, and such action shall in no event be deemed a breach of CONTRACT:

1. If a termination is brought about for the convenience of the STATE and not as a result of unsatisfactory performance on the part of the CONSULTANT, final payment shall be made based on the actual work performed by the CONSULTANT prior to termination, including, but not limited to, the number of hours and other authorized costs audited in accordance with the terms of the CONTRACT.
2. If the termination is brought about as a result of the unsatisfactory performance on the part of the CONSULTANT, the value of the work performed by the CONSULTANT prior to termination shall be established by the STATE.
3. The STATE reserves the right to terminate this CONTRACT in the event it is found that the certification filed by the CONSULTANT in accordance with the requirements contained in State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONSULTANT in accordance with the written notification terms of the CONTRACT.

ARTICLE 19 – DEATH OR DISABILITY OF THE CONSULTANT

In the case of death or disability of one or more but not all persons herein referred to as the CONSULTANT, the rights and duties of the CONSULTANT shall devolve upon the survivor or survivors of the CONSULTANT, who shall be obligated to perform the services required under this CONTRACT, and the STATE shall make all payments due to them.

In case of the death or disability of all persons herein referred to as CONSULTANT, all data and records pertaining to the PROJECT shall be delivered within sixty (60) calendar days to the STATE or their duly authorized representative. In case of the failure of the CONSULTANT's successors or personal representatives to make such delivery on demand, then in that event the representatives of the CONSULTANT shall be liable to the state for any damages it may sustain by reason thereof. Upon the delivery of all such data to the STATE, the STATE will pay to the representatives of the CONSULTANT all amounts due the CONSULTANT, including retained percentages to the date of death of the last survivor.

ARTICLE 20 – INDEPENDENT CONTRACTOR

The CONSULTANT, in accordance with their status as an independent contractor, covenants and agrees that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the STATE by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an

officer or employee of the STATE, including but not limited to, Workers' Compensation coverage, Unemployment Insurance Benefits, Social Security coverage or Retirement membership or credit.

ARTICLE 21 – COVENANT AGAINST CONTINGENT FEES

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this Contract, and that they have not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this CONTRACT. For breach or violation of this warranty, the STATE shall have the right to annul this CONTRACT without liability, or, in its discretion, to deduct from the CONTRACT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 22 – TRANSFER OF AGREEMENT

The CONSULTANT specifically agrees, as required by State Finance Law, Section 138, that they are prohibited by law from assigning, transferring, conveying, subletting or otherwise disposing of the CONTRACT or of their right, title or interest therein, or their power to execute such CONTRACT, to any other person, company or corporation, without the previous consent in writing of the STATE.

If this provision of the law be violated, the STATE shall revoke and annul the CONTRACT and the STATE shall be relieved from any and all liability and obligations thereunder to the person, company or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet or otherwise dispose of the CONTRACT, except so much as may be required to pay his employees.

ARTICLE 23 – PROPRIETARY RIGHTS

The CONSULTANT agrees that if copyrights, patentable discoveries or inventions or rights in data should result from work described herein, all rights accruing from such discoveries or inventions shall be the sole property of the CONSULTANT. However, the CONSULTANT agrees to and does hereby grant to the United States Government and the State of New York an irrevocable, nonexclusive, nontransferable paid-up license to reproduce, publish, make, use, and sell each subject invention throughout the world and by and on behalf of the Government of the United States and States and domestic municipal governments, all in accordance with the provisions of 48 CFR 1-27, and other applicable Federal laws, rules and regulations.

ARTICLE 24 – SUBCONTRACTORS/SUBCONSULTANTS

The CONSULTANT may arrange for a portion(s) of its responsibilities under this CONTRACT to be subcontracted to qualified, responsible subconsultants/subcontractors, subject to approval of the STATE. If the CONSULTANT determines to subcontract a portion of the services, the subconsultants/subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this CONTRACT must be fully explained by the CONSULTANT to the STATE. As part of this explanation, the subconsultant/subcontractor must submit to the STATE a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the CONSULTANT prior to execution of this CONTRACT.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this CONTRACT including, but not limited to, the body of this CONTRACT, Appendix A – Standard Clauses for New York State Contracts, and the advertisement for proposals. Unless waived in writing by the STATE, all subcontracts between the CONSULTANT and subconsultants/subcontractors shall expressly name the STATE, through the DEPARTMENT, as the sole intended third party beneficiary of such subcontract. The STATE reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the STATE a party to any subcontract or create any right, claim, or interest in the subconsultant/subcontractor or proposed subconsultant/subcontractor against the STATE.

The STATE reserves the right, at any time during the term of the CONTRACT, to verify that the written subcontract between the CONSULTANT and subconsultants/subcontractors is in compliance with all provisions of this Section and any subcontract provisions contained in this CONTRACT.

The CONSULTANT shall give the STATE immediate notice of writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subconsultant/subcontractor or which may affect the performance of the CONSULTANT's duties under the CONTRACT. Any subcontract shall not relieve the CONSULTANT in any way of any responsibility, duty, and/or obligation of the CONTRACT.

If at any time during the performance under this CONTRACT total compensation to a subconsultant/subcontractor exceeds or is expected to exceed \$100,000, that subconsultant/subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.

ARTICLE 25 – CERTIFICATION REQUIRED BY 49CFR, PART 29

The signator to this CONTRACT, being duly sworn, certifies that, EXCEPT AS NOTED BELOW, its company and any person associated therewith in the capacity of the owner, partner, director, officer, or major stockholder (five percent or more ownership):

1. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
2. has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three (3) years;
3. does not have a proposed debarment pending; and
4. has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

EXCEPTIONS – None Noted

ARTICLE 26 – RESPONSIBILITY OF THE CONSULTANT

The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all services furnished by the CONSULTANT under this CONTRACT. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its services. However, the STATE may in certain circumstances, provide compensation for such work.

Neither the STATE's review, approval, or acceptance of, nor payment for, the services required under this CONTRACT shall be construed to operate as a waiver of any rights under this CONTRACT or of any case of action arising out of the performance of this CONTRACT, and the CONSULTANT shall be and remain liable to the STATE in accordance with applicable law for all damages to the STATE cause by the CONSULTANT's negligent performance or breach of contract of any of the services furnished under the CONTRACT.

The rights and remedies of the STATE provided for under this CONTRACT are in addition to any other rights and remedies provided by law.

If the CONSULTANT is comprised of more than one legal entity or any group of partners or joint ventures associated for the purposes of undertaking this CONTRACT, each such entity acknowledges and hereby affirmatively represents and agrees that each has the power to bind the CONSULTANT and each of the others hereunder, and as such, each acts both as principals and agent of the CONSULTANT and of each of the others hereunder. Each further acknowledges and agrees that all such entities, partners or joint ventures associated for the purposes of undertaking this CONTRACT shall be jointly and severally liable to third parties, including, but not limited to the STATE, for acts or omissions of the CONSULTANT, or any other entity, partner or joint venture hereunder.

If the CONSULTANT is comprised of more than one legal entity or any group of partners or joint ventures associated for the purposes of undertaking this CONTRACT, each such entity acknowledges and hereby affirmatively represents and agrees that the respective rights, duties and liabilities of each hereunder shall be governed by the laws of the State of New York, including, but not limited to the New York Partnership Law.

ARTICLE 27 – SECURITY AND CONFIDENTIALITY OF INFORMATION

Information received as part of this CONTRACT shall be considered Confidential Information. The CONSULTANT warrants that it will take the appropriate steps as to its personnel, agents, officers, and any subcontractors/subconsultants regarding the obligations arising under this clause to insure such confidentiality. The CONSULTANT shall have written policies and/or business procedures in place which will protect Confidential Information from unauthorized disclosure, use, access, loss, alteration, or destruction. The CONSULTANT may disclose to other parties, as authorized by the NYSDOT Project Manager, or as described in the scope of services, only the information necessary to perform services under this CONTRACT. However, the CONSULTANT shall in no circumstance, communicate with the public or news media without prior authorization from the State's designee. Neither shall the CONSULTANT disclose information deemed confidential by the STATE nor shall the CONSULTANT disclose any other information obtained or developed in the performance of services under this CONTRACT without written authorization of the STATE. This warranty shall survive termination of this CONTRACT.

The CONSULTANT shall comply with the provisions of the New York State Information Security Breach and Notification Act, including General Business Law Section §89-aa and State Technology Law §208 as enacted by such Act or subsequently amended. In the event of an information security breach resulting in the unauthorized disclosure of personal information, the CONSULTANT shall be liable for the costs associated with such breach if caused by the CONSULTANT's negligence or willful acts or omissions, or

the negligent or willful acts or omissions of the CONSULTANT's agents, officers, employees or subconsultants.

ARTICLE 28 – VENDOR RESPONSIBILITY

The Department of Transportation has undertaken an affirmative review of the CONSULTANT's responsibility in accordance with the applicable standards outlined in Comptroller's "Guide to Financial Operations", and based upon such review, reasonable assurance that the CONSULTANT is responsible has been determined.

(a) The CONSULTANT shall, at all times during the CONTRACT, remain responsible. The CONSULTANT agrees, if requested by the Commissioner of Transportation or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organization and financial capacity.

(b) The Commissioner of NYSDOT (or his or her designee) in his or her sole discretion, reserves the right to suspend any or all activities under this CONTRACT at any time when he or she discovers information that calls into question the responsibility of the CONSULTANT. In the event of such suspension, the CONSULTANT will be given written notice outlining the particulars of such suspension order. Upon issuance of such notice, the CONSULTANT shall comply with the terms of the suspension order. CONTRACT activity may resume at such time as the Commissioner of NYSDOT (or his or her designee) issues a written notice authorizing the resumption of performance under the CONTRACT.

(c) Upon written notice to the CONSULTANT, and a reasonable opportunity to be heard with appropriate NYSDOT officials or staff, the CONTRACT may be terminated by the Commissioner of Transportation or his or her designee at the CONSULTANT's expense where the CONSULTANT is determined by the Commissioner of Transportation or his or her designee to be non-responsible. In such event, the Commissioner of Transportation or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue legal or equitable remedies for breach.

ARTICLE 29 – WRITTEN NOTICES

1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - a. via certified or registered United States mail, return receipt requested;
 - b. by facsimile transmission;
 - c. by personal delivery;
 - d. by expedited delivery service; or
 - e. by email.

Such notices shall be addressed as follows or to such difference addresses as the parties may time-to-time designate:

**New York State Department of Transportation
Director, Office of Contract Management
50 Wolf Rd, 6th Floor, Albany, NY 12232**

Telephone Number: (518) 457-2600

Facsimile Number: (518) 457-2875

Email: CONADMIN@dot.ny.gov

Consultant's Name: Enter Prime Consultant Name

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

Email:

2. Any such notice shall be deemed to have been given either at the time of personal delivery, or, in the case of expedited delivery service or certified registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
3. The parties may from time-to-time, specify any new or different address in the United States as their address for purpose of receiving notice under this CONTRACT by giving fifteen (15) calendar days' notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this CONTRACT.
4. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems, and/or for dispute resolution.

ARTICLE 30 – TITLE VI ASSURANCE

During the performance of this CONTRACT, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Regulations, Part 200 as they may be amended from time-to-time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this CONTRACT.
2. **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the CONTRACT, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors/subconsultants, including procurements or materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, Section 21.5 of the Regulations, including employment practices when the CONTRACT covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractor/Subconsultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor/subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this CONTRACT and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

4. Information and Reports: The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to NYSDOT's Office of Diversity and Inclusion or FHWA, as appropriate, and shall set forth the efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this CONTRACT, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the CONSULTANT under the CONTRACT until the CONSULTANT complies and/or
 - b. Cancellation, termination, or suspension of the CONTRACT in whole or in part.
6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interest of the United States.

ARTICLE 31 – COMPLIANCE WITH CONSULTANT DISCLOSURE LAWS

The CONSULTANT shall timely, accurately and properly comply with the reporting requirements of State Finance Law, by submitting the New York State Office of the Comptroller's "Form A - State Consultant Services – Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term" initially at the beginning of the contract and "Form B - State Consultant Services – Contractor's Annual Employment Report" every year the contract is in effect (available through the NYSDOT's website under Consultant Contract Reporting Requirements at: <https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions>).

ARTICLE 32 – ENSURING PAY EQUITY BY STATE CONSULTANTS/CONTRACTORS

In accordance with Executive Order 162, issued on January 9, 2017, the CONSULTANT shall provide detailed workforce utilization reports of the CONSULTANT and each subconsultant/subcontractor that include, in addition to equal employment opportunity information, the job title and salary of each employee directly performing work on a STATE contract.

If the CONSULTANT cannot identify the individuals working directly on a STATE contract, then the CONSULTANT and each subconsultant/subcontractor shall provide such information of each employee in the CONSULTANT's entire workforce. Such information shall be reported to NYSDOT at quarterly intervals.

The reporting period shall be on a quarterly basis (January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31). The reporting requirement shall begin on the effective date of the CONTRACT and continue for the duration of the CONTRACT term. Reports shall be submitted within 15 calendar days from the end of each reporting period.

Detailed workforce utilization reports, as required above, shall be submitted in such form and in such manner as shall be required by NYSDOT and as in accordance with Consultant Instruction 17-02.

The CONSULTANT shall include this provision in every subcontract so that such provisions shall be binding upon each subconsultant/subcontractor, of the subcontract is in excess of \$25,000.

ARTICLE 33 – CONFLICTS OF INTEREST

The CONSULTANT has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the CONSULTANT's performance of the services does not and will not create a conflict of interest with, nor position the CONSULTANT to breach any other contract currently in force with the State of New York, that the CONSULTANT will not act in any manner that is detrimental to any STATE project on which the CONSULTANT is rendering services.

The CONSULTANT hereby affirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the CONSULTANT's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this CONTRACT. The CONSULTANT shall have a duty to notify the STATE immediately of any actual or potential conflicts of interest.

In conjunction with any subcontract under this CONTRACT, the CONSULTANT shall obtain and deliver to the STATE, prior to entering a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subconsultant/subcontractor. The CONSULTANT shall also require in any subcontracting agreement that the subconsultant/subcontractor, in conjunction with any further subconsulting agreement, obtain and deliver to the STATE a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subconsultants/subcontractors prior to entering into a subcontract.

The STATE and the CONSULTANT recognize that conflicts may occur in the future because the CONSULTANT may have existing, or established new, relationships. The STATE will review the nature of any relationship and reserves the right to terminate this CONTRACT for any reason, or for cause, if, in the judgement of the STATE, a real or potential conflict of interest cannot be cured.

ARTICLE 34 – ETHICS REQUIREMENTS

The CONSULTANT and its subconsultants/subcontractors shall not engage any person who is, or has been at any time, in the employ of the STATE to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of STATE employees, and the rules, regulations, opinions, guidelines, or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively the "Ethics Requirements"). The

CONSULTANT certifies that all of its employees and those of its subconsultants/subcontractors who are former employees of the STATE who are assigned to perform services under this CONTRACT shall be assigned in accordance with all Ethics Requirements. During the term, no person who is employed by the CONSULTANT or its subconsultants/subcontractors and who is disqualified from providing services under this CONTRACT pursuant to any Ethics Requirements may share in any net revenues of the CONSULTANT or its subconsultants/subcontractors derived from this CONTRACT. The CONSULTANT shall identify and provide the STATE with notice of those employees of the CONSULTANT and its subconsultants/subcontractors who are former employees of the STATE that will be assigned to perform services under this CONTRACT, and make sure that such employees comply with all applicable laws and prohibitions. The STATE may request that the CONSULTANT provide it with whatever information the STATE deems appropriate about each such person's engagement, work cooperatively with the STATE to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the STATE, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The STATE shall have the right to withdraw or withhold approval of any subconsultant/subcontractor if utilizing such subconsultant/subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The STATE shall have the right to terminate this CONTRACT at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

Contract: C004308

Project Title: Northern Westchester East-West Corridors Study

IN WITNESS WHEREOF, this agreement has been executed by the STATE, acting by and through the Commissioner of Transportation, and the CONSULTANT or their appointed representative, who has executed this agreement on the day and year written below.

[Consultant Firm Name]

By: _____
Printed Name, Title

Signature: _____

Date: _____

Agency Certification(s)

The New York State of Transportation has undertaken an affirmative review of the proposed Consultant's responsibility in accordance with the standards outlined in the Office of the State Comptrollers's *Guide to Financial Operations*, Chapter XI. 16, and based on such review, has reasonable assurance that the proposed CONSULTANT is responsible.

All information provided with respect to the requirements contained in State Finance Laws Section §139-j & §139-k is complete, true, and accurate. All requirements for State Finance Laws Section §139-j & §139-k have been met and the appropriate documentation is attached.

In addition to the acceptance of this CONTRACT, the DEPARTMENT certifies that original copies of this signature page will be attached to all other exact copies of this CONTRACT.

RECOMMENDED BY:

FOR THE PEOPLE OF THE STATE OF NEW YORK

Office of Contract Management
Date: _____

By: _____
Department of Transportation
Date: _____

ATTORNEY GENERAL:

STATE COMPTROLLER:

By: _____
Date: _____

By: _____
Date: _____

Contract: C004308

Project Title: Northern Westchester East-West Corridors Study

Acknowledgment for Contract C004308

For contracts signed in New York State

State of New York)

County of) ss.:

On the ____ day of _____ in the year 20__, before me the undersigned personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

My Commission Expires:

For contracts signed **outside** of New York State

State of)

County of) ss.:

On the ____ day of _____ in the year 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual(s) made such appearance before the undersigned in _____ (insert the city or other political subdivision and the state or county or other place the acknowledgment was taken).

Notary Public

(Signature and office of individual taking acknowledgment)

My Commission Expires:

Contract: C004308

Project Title: Northern Westchester East-West Corridors Study

APPENDIX A - STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS June 2023

<https://www.dot.ny.gov/main/business-center/contacts>

APPENDIX B - REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS (June 2016)

<https://www.dot.ny.gov/main/business-center/contacts>

U.S. GOVERNMENT (FTA) REQUIRED CLAUSES January 2023

<https://www.dot.ny.gov/main/business-center/contacts>

APPENDIX C - SPECIAL EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS Updated July 2017

<https://www.dot.ny.gov/main/business-center/contacts>

APPENDIX D - PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:

REQUIREMENTS AND PROCEDURES (revised State 7-12-2017) <https://www.dot.ny.gov/main/business-center/contacts>

Contract: C004308

Project Title: Northern Westchester East-West Corridors Study

Attachment 2: Consultant Information

Firm Name: _____

Address: _____

City, State: _____ Zip Code: _____

Telephone (____) _____ - _____

Contact Person Name: _____ Title: _____

Email Address: _____

Please indicate below the name, title, address, telephone number and email address of the person who has the authority to contractually bind the Proposer.

Name _____ Title: _____

Address: _____

City, State: _____ Zip Code: _____

Telephone (____) _____ - _____

Email Address: _____

Attachment 3: Procurement Lobbying Law Act Certification Form**Offerer Disclosure of Prior Non-Responsibility Determinations and Understanding and Agreement to Comply****Part I – DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS****Name and Address of Individual or Entity Seeking to Enter Into the Procurement Contract**

1. Has any Government Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? If YES, please also answer questions 2 – 4. If NO, skip to question 5.	☐ Yes	☐ No
2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law?	☐ Yes	☐ No
3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Government Entity?	☐ Yes	☐ No
4. If you answered YES to any of the above questions, please provide details regarding the finding of non-responsibility below: Government Entity: Date of Finding of Non-Responsibility: Basis of Finding of Non-Responsibility: <i>(Attach additional pages as necessary to provide sufficient detail)</i>		
5. Has any Governmental Entity or other Governmental agency terminated or withheld a Procurement Contract with the individual or entity seeking to enter into the Procurement Contract due to the intentional provision of false or incomplete information?	☐ Yes	☐ No

6. If you answered YES to Question 5 above, please provide details below: Governmental Entity: Date of Termination or Withholding of Contract: Basis of Termination or Withholding: <i>(Attach additional pages as necessary to provide sufficient detail)</i>

PART 2 – AFFIRMATION OF UNDERSTANDING and AGREEMENT TO COMPLY

Offerer affirms this Day of , 20 that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b). Business Entity Name and Address: By (Signature) _____ Printed Name and Title: Date:
--

Attachment 4: Consultant Certification

Consultant Certification

I, the undersigned, in my official capacity first stated below, certify that the information submitted is truthful, accurate, and complete, and the Proposer, in submitting a Proposal to the New York State Department of Transportation, has complied with all applicable terms and conditions set forth in the Request for Qualifications (RFQ), Request for Proposals (RFP), or Invitation for Bids (IFB) and the Proposer certifies to those such requirements, as set for the below:

I. CERTIFICATIONS

A. STATE & FEDERALLY FUNDED CONTRACTS

- i. Proposer, under penalty of perjury, that all the responses provided to the Department with respect to its submitted Form AC-3290-S New York State Vendor Responsibility Questionnaire For-Profit Business Entity, are complete, true and accurate, and further Proposes and acknowledges that it, and any subcontractor/subconsultant performing work valued at \$100,000 or greater, must remain a responsible business entity throughout the duration of the Contract;
- ii. By submission of this Proposal, each Consultant, and each person signing on behalf of any Consultant, and in the case of a joint Proposal each party thereto, certifies as to its own organization, under penalty of perjury, that the Consultant has, and has implemented, a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-G of the New York State Labor Law.
- iii. Vendor Assurance of No Conflict of Interest or Detrimental Effect
The Proposer attests that its performance of the services outlined in this Proposal does not and will not create a conflict of interest with, nor position the Proposer to breach, any other contract currently in force with the State of New York.

Furthermore, the Proposer attests that it will not act in any manner that is detrimental to any State project on which the Proposer is rendering services. Specifically, the Proposer attests that:

- a. The fulfillment of obligations by the Proposer, as proposed in the response, does not violate any existing contracts or agreements between the Proposer and the State;
- b. The fulfillment of obligations by the Proposer, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Proposer has with regard to any existing contracts or agreements between the Proposer and the State;
- c. The fulfillment of obligations by the Proposer, as proposed in the response, does not and will not compromise the Proposer's ability to carry out its obligations under any existing contracts between the Proposer and the State;
- d. The fulfillment or any other contractual obligations that the Proposer has with the State will not affect or influence its ability to perform under any contract with the State resulting from this Proposal;

- e. During negotiations and execution of any contract resulting from this Proposal, the Proposer will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
- f. In fulfilling obligations under each of its State contracts, including any contract which results from this Proposal, the Proposer will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
- g. No former officer or employee of the State who is now employed by the Proposer, nor any former officer or employee of the Proposer who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate Section 73(8)(a) of the NYS Public Officers Law; and
- h. The Proposer has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended to as a reward for any official action on the part of said employee, member or director.

Proposers responding to this RFQ/RFP/IFB should note that the State recognizes that conflicts may occur in the future because a Proposer may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

B. FEDERALLY FUNDED CONTRACTS

- i. The Proposer shall conform in all respects in accordance with the true intent and meaning of each and all of the requirements set forth in FHWA-1273 *Required Contract Provisions Federal-Aid Construction Contracts* upon award. When any such Federal Provisions may be in conflict with any other provisions of the contract, the Federal Provisions shall prevail and take precedence and be of force over and against any conflicting provisions of said contract.
- ii. The Proposer shall insert Form FHWA-1273 *Required Contract Provisions Federal-Aid Construction Contracts*, into all subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). The Proposer (or Subcontractor/Subconsultant) shall incorporate by reference the applicable requirements of Form FHWA-1273 for work conducted under any purchase order, rental agreement, or agreement for other services.
- iii. For Federal-Aid contracts only, certify, under penalty of perjury, as to the current history regarding suspensions, debarments, voluntary exclusions, determinations of ineligibility indictments, convictions or civil judgments required by *FHWA Form 1273 Required Contract Provisions Federal-Aid Construction Contracts – Section X “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion”*, and certifies to include this provision in all lower tiered transactions valued at \$25,000 or more, as set forth in FHWA-1273.

iv. Certification of Eligibility (29 CFR 5.5)

By entering into this contract, the Proposer certifies that neither it (nor he or she) nor any person or entity who has an interest in the Proposer's business entity is a person or entity ineligible to be awarded Government contracts by virtue of section 3(a) of the David-Bacon Act or 29 CFR 5.12(a)(1). No part of this contract shall be subcontracted to any person or entity ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). The penalty for making false statements is prescribed in the U.S. Criminal Code, 19 U.S.C. 1001.

v. Certification Regarding Use of Contract Funds for Lobbying (*applicable to all Federal-Aid contracts, AND to all related subcontracts exceeding \$100,000 (49 CFR 20)*)

- a. The prospective participant certifies, by signing and submitted this Bid or Proposal, to the best of their knowledge and belief, that:
 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.
- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S. Code §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000, and that all such subcontractors shall certify and disclose accordingly.
- c. The Prospective Participant shall require that the language of this section v. shall be included in all lower tier subcontracts which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

I have read and accept all terms and conditions contained in the Draft Contract, including all appendices. This Proposal is a firm offer for a 365-day period from the date of the Proposal submission.

Dated: _____, 20_____

Legal Name of person, Proposer or Corporation

By: _____
(Signature) (Title)

Attachment 5: Executive Order 177 Certification

This Certification must be completed and returned with the executed contract documents.

EXECUTIVE ORDER 177

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodations for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require a reasonable accommodation in employment on the basis of Sabbath observances or religious practices.

Generally, the Human Rights Law applies to:

- All employees of four or more people, employment agencies, labor organizations and apprenticeships training programs in all instances of discrimination or harassment;
- Employers with fewer than four employees in all cases involving sexual harassment; and
- Any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Proposer/Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including, but not limited to, the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Proposer: _____

Name: _____

Signature: _____ Date: _____

Attachment 6: Executive Order 16 Certification

Certification Under Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia

Executive Order No. 16 provides that “all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.”

The complete text of Executive Order No. 16 can be found [here](#).

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in case of some solicitation.

As defined in Executive Order No. 16, an “entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

Is Vendor an entity conducting business operations in Russia, as defined above? Please answer by checking one of the following boxes.

- ☐ 1. No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.
- ☐ 2a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion).
- ☐ 2b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)
- ☐ 3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16.

The undersigned certifies under penalties of perjury that they are knowledgeable about the Vendor’s business and operations and that the answers provided herein is true to the best of their knowledge and belief.

Vendor Name (legal entity): _____

By (signature): _____

Name and Title: _____

Date: _____

Attachment 7: M/WBE EEO Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement

Not Applicable

Attachment 8: Utilization Plan – DBE Participation

Complete the following table for the Prime firm and all Subconsultants (consultant team composition) indicating each firm's percentage of total cost for the contract. Prime Firms must ensure that all of the proposed Subconsultants are currently certified through the New York State Unified Certification Program (DBE Directory) (<https://nysucp.newnycontracts.com>) for the type of work they are anticipated to perform. Certifications must be downloaded, and copies provided with the submission. Only NYSUCP certified DBEs are eligible to count towards attainment of this federally funded procurement.

Further, participation by a certified DBE Prime consultant will count towards DBE participation and goal attainment.

If the combined percentage of total contract value for all proposed, certified DBEs does not meet the DBE Participation Goal, then the firm must provide documentation of their Good Faith Efforts. Reference the Construction Contract's **DBE/MBE/WBE/SDVOB Contractor' Solicitation and Good Faith Efforts Guide** and the **Good Faith Efforts** Document for details on preparing a Good Faith Effort justification. Though these documents are for Construction Contracts, the general information provided is applicable for all contracts. Construction documents can be found at: <https://www.dot.ny.gov/main/business-center/contractors/construction-division/forms-manuals-computer-applications-general-information/civil-rights>.

Include the following with the Part II: Cost and Administrative Proposal/Submittal:

- The Good Faith Effort justification,
- DBE Certification from NYSUCP, and
- The Construction Contract's [AAP-10 DBE/MBE/WBE/SDVOB Solicitation Log](#) (Not all fields will be applicable)

Contract No.: **C004308**

Firm Legal Name	NYSUCP Certified DBE		% of Total Contract Value
	DBE	NONE	
Prime:			
Subconsultants:			
Total			100%

Attachment 9: Utilization Plan – M/WBE/SDVOB Participation

Not Applicable

Attachment 10: NYS Business Reporting

Not Applicable

Attachment 11: Key Personnel References

Instructions:

- Complete one Attachment 11 for each Key Personnel title identified in the RFP.
- Attachment 11 shall not exceed six (6) pages for each Key Personnel.
- Proposer's may expand the boxes as necessary.
- The term "Client" below refers to the past project owner. "Client" is NOT a Prime Contractor where the proposing firm acted in the capacity as a Subcontractor.

1. Personnel Name and Title	
2. Title Assigned for this Project	
3. Firm working for on this Project	
4. Current Employment Status	☐ Employed by Firm identified in 3. above ☐ Employed by a different Firm ☐ Unemployed
5. Years of Relevant Experience	
6. Description of Relevant Experience	
7. Certification/Licenses	
8. Education	
9. Past Project Experience	Complete below for a maximum of 5 past projects
9.1 Project Description #1 (include contract number where appropriate)	
9.2 Client Name	
9.3 Client Contact Information (including contact name, phone number, and email address)	
9.4 Description of person's role and responsibilities during project	
10.1 Project Description #2 (include contract number where appropriate)	
10.2 Client Name	
10.3 Client Contact Information (include contact name, phone number, and email address)	
10.4 Description of person's role and responsibilities during project	
Add additional rows if needed	

Attachment 12: Contract Job Title Descriptions & Qualifications

The RFP provides the following contract job titles, including typical position titles and role descriptions, to assist proposers in offering qualified candidates.

The position levels are distinguished by the depth and breadth of the knowledge areas of the subject matter. Note: The minimum qualifications and duty descriptions are presented for guidance purposes and are not intended to confine consultants to the specifics of the job titles presented. However, proposers shall fit key personnel into each presented job title and level of responsibility as accurately as possible.

Consultant Project Manager

Typical Position Titles: Consultant Project Manager, Consultant Task Assignment Manager, Project Manager

Typical duties may include: Supervises, directs and coordinates activities of personnel involved in each assignment to ensure assignment progresses on schedule and within prescribed budget. Plans, directs, and coordinates activities of assignment to ensure that goals or objectives are accomplished. Responsible for the performance of all work components and elements; ensures the execution and delivery of the assignment. Primary contact with the NYMTC Project Manager. Submits timely progress reports and invoices.

Geographic Information Systems (GIS) Specialist

Typical Position Titles: GIS Specialist, GIS Analyst, Remote Sensing Technologist, Mapping Technologist, Geographer, Planner

Typical duties may include: Produces data layers, maps, tables, or reports using spatial analysis procedures or Geographic Information Systems (GIS) technology, equipment, or systems. Designs or prepares graphic representation of GIS data using GIS hardware or software applications. Performs computer programming, data analysis, or software development of GIS applications. Has specialized technical training in GIS applications to support transportation planning policies, procedures and data analysis.

Public Involvement Specialist

Typical Position Titles: Public Involvement Specialist, Public Information Specialist, Media Relations Specialist, Marketing and Promotions Specialist

Typical duties may include: Prepares, edits and disseminates informational materials related to transportation planning and programs through various media including brochures, reports, media advisories, press releases, public notices, websites, and social media. Coordinates meetings and events, press conferences, interviews, and responses to press inquiries. Works and consults with member agency staff and representatives of state and local governments. Has strong background in public involvement, outreach and engagement, including in-person and virtual approaches.

Technical Analyst

Typical Position Titles: Technical Analyst, Transportation Analyst, Transportation Modeler, Data Analyst, Survey Researcher, Economist, Demographer, Operations Research Analyst, Statistics Assistant, IT Specialist, Statistician, Data Scientists

Typical duties may include: Designs, directs and conducts the technical analyses and research to support transportation planning, including surveys, studies, forecasts and modelling. Collects and analyzes transportation data and statistics to support the development of transportation programs and assess transportation system performance and travel behavior. Works and consults with member agency staff and representatives of state and local governments. Has strong technical background to support transportation planning policies, procedures and data analysis.

Transportation Planner

Typical Position Titles: Transportation Planner, Urban and Regional Planner, Geographer

Typical duties may include: Supports the development and maintenance of transportation planning studies, reports and programs. Designs, directs and conducts transportation systems planning, program planning, and project development. Reviews activities in support of transportation planning products. Works and consults with member agency staff and representatives of state and local governments. Possesses understanding and knowledge of applicable transportation planning programs, regulations, and requirements.

Staff Level	General Description of Responsibility (Does not apply to Consultant Project Manager)	Years of experience (guidance)
Level I	Under supervision of senior staff, conducts and coordinates studies or analyses; reviews and recommends actions; prepares or assists in preparing and reviewing study designs and reports. Investigates issues and identifies solutions; evaluates the effectiveness of solutions.	Generally 1-3 years' experience
Level II	Performs the most difficult investigations and analyses. Develops study designs or supervises subordinate staff in conducting such tasks. Prepares or reviews the most difficult of such tasks. Prepares or gives close direction to projects involving novel or especially difficult problems or approaches.	Generally 4-7 years' experience
Level III	Principal expert in specialized field. Conducts challenging or unique studies and analyses or may supervise staff in conducting such studies and analyses. Reviews technical reports and study designs. May oversee interaction with member agency staff and representatives.	Generally 8+ years of experience

NOTE: A master's degree in Planning, Economics, Demography, Geography, Urban Studies, Landscape Architecture or a Science, Technology, Engineering and Mathematics (STEM) field may be substituted for one year of the required experience. A Ph.D. in Planning, Economics, Demography, Geography, Urban Studies, Landscape Architecture or a STEM field may be substituted for two years of the required experience.

Attachment 13: Detailed Scope of Services

Task 1 Study Governance

The NYMTC Project Manager and the consultant will agree on the tool they will use to store and share electronic files between themselves, the Project Steering Committee (PSC) and the Project Advisory Committee (PAC).

The consultant shall meet with the Project Manager weekly to provide brief status updates.

The consultant shall engage the Project Manager and PAC to prepare and maintain a project plan for the study for acceptance by the PSC.

The consultant shall provide an initial draft of all study materials to the Project Manager. The Project Manager will coordinate review and collect comments from the PSC/PAC and provide collected comments to the consultant for the consultant to address through revision of draft material. **There shall be two review cycles for each document, each lasting at least 5 business days (10 business days for the final report).** No project materials shall be made available to the public without written approval from the Project Manager.

The consultant shall prepare and maintain distribution lists of targeted stakeholders and interested members of the public, in consultation with the Project Manager.

The consultant shall be responsible for producing clear and comprehensive minutes of all attended meetings; the consultant shall submit such minutes to the Project Manager within ten business days from the date of each meeting.

Deliverables

1. Project plan
2. Stakeholder distribution list
3. Public distribution list
4. Meeting minutes

Task 2 Key Study Parameters

The project manager will work with the PAC to recommend key study parameters to the PSC, including the study's horizon and milestone years and preliminary study goals and objectives. The study intends to create an actionable plan leading to follow-on projects.

The consultant shall document the key study parameters for use in subsequent deliverables.

NYMTC's staff will develop a project webpage on www.NYMTC.org which will be used for online communication with the public. The webpage will include a brief overview of the study and provide information that may be of interest to the public including funding applications for component projects. The PSC and PAC will be responsible for providing NYMTC's staff with any funding applications appropriate for inclusion on the webpage. This information will include public meeting dates and locations, presentations from public meetings, the draft report, and other documents appropriate for public review. The webpage will also provide an email link to a shared mailbox to allow the public to contact the study team.

The consultant shall prepare the study overview and shall provide other study materials appropriate for inclusion on NYMTC's project webpage in a format appropriate for posting on a website.

DELIVERABLES:

1. Key study parameters
2. Study overview

Task 3 Existing Study Area Conditions – Transportation System

The consultant shall identify and organize information about existing transportation facilities and services, transportation planning studies and recommendations, and transportation improvement projects in both a visual format and in a technical memorandum.

The consultant shall compile current transportation data and information about the study area, including origin/destination data. That data and information shall include:

- study area demographics and socio-economic data;
- traffic counts by mode and by time of day;
- existing transit service data;
- geometric constraints of existing facilities;
- pedestrian and bicycle counts in the corridor;
- freight movement and the potential for future marine-based freight movements; and
- Ongoing and planned improvement projects which will have a bearing on east-west corridor functionality and scheduling.

The consultant shall work with the project manager and relevant NYMTC staff to obtain the traffic counts, zone to zone trip tables, congested travel time, and other data from the New York Best Practice Model (NYBPM) forecasts to fill the gap in the compiled data set(s) as needed. NYMTC's staff will provide the consultant with study area demographics and socio-economic data, including NYMTC's most recent SED forecasts at the county- and transportation analysis zone – levels.

DELIVERABLES:

1. Preliminary and final drafts, and final visualized study area profile
2. Preliminary and final drafts, and final study area existing conditions technical memo
3. Compiled database in a format to be decided by the NYMTC Project Manager

Task 4 Land Use & Development Profile

The consultant shall assemble a visualized profile of local zoning and master planning for each community, local government capital improvement planning, PSC/PAC-provided potential development projects and opportunities, and prospective schedules. The consultant will work with the project manager and relevant NYMTC staff to compare the profile to the most recent and updated list of NYMTC's Land Use & Development inventory to identify discrepancies and assess the accuracy of the data the consultant collected.

The consultant shall analyze municipal development and land use policies. The analysis shall include reviewing comprehensive planning, zoning, and site development regulations.

DELIVERABLE:

1. Preliminary and final drafts, and final visualized corridor land use & development profile
2. Preliminary and final drafts, and final land use & development technical memorandum

Task 5 Existing Study Area Conditions – Environmental Analysis

The consultant shall conduct a comprehensive literature search to identify cultural resources within the study area that are listed on, or nominated to, the National Register of Historic Places, as well as other resources that may be of cultural significance.

The consultant shall analyze recent grant awards to municipalities in the study area for community, economic, housing, infrastructure, and natural resource development and planned private development projects to identify projects and activities whose scopes and impacts may affect the study area. The PAC will supply the list of grant-funded capital projects for the analysis. These are projects for which grant applications have been submitted, awards have been announced or are being actively managed by one of the municipalities in the study area but are not yet completed.

The consultant shall analyze municipal, county, and state signage to see if there are aspects of that system that may impact corridor assessment and planning work.

The consultant shall evaluate the nature, extent, and significance of the potential impact of each strategy identified in the [2023 Corridor Study](#) on fish, wildlife, and habitat, and consult with appropriate federal and state agencies as necessary.

DELIVERABLES:

1. Preliminary and final drafts, and final visualized environmental analysis
2. Preliminary and final drafts, and final environmental analysis technical memorandum

Task 6 Study Outreach Program

Under the guidance of the project manager, the consultant shall develop a draft Outreach Program that complies with [NYMTC's Compendium of Agreements and Operating Procedures](#) and [Title VI/Non-Discrimination Program](#). The Outreach Program shall be accessible to English and Spanish speakers. The Outreach Program shall be devised to be compatible with local government websites and social media platforms for distribution of material to each municipality's communities of interest. The consultant will present a preliminary draft of the Outreach Program to the Project Manager. The consultant will revise the preliminary and final drafts of the program after review by the PM, PSC and PAC.

DELIVERABLES:

1. Preliminary and final drafts
2. Preliminary and final drafts, and final Outreach Program document

Task 7 Disposition of Previous Recommendations from Past Transportation Studies

The consultant shall review recommendations from past transportation studies of the study area and report the status of those recommendations in a technical memorandum including the following:

- [Routes 202/35/6 Bear Mountain Parkway Sustainable Development Plan](#)
- [Town of Cortlandt Medical Oriented District \(MOD\) Findings](#)
- [Transportation Corridors Needs/Issues, Goals & Strategies Report](#)

The analysis shall provide a summary as to why certain projects were never completed. The analysis shall also identify those projects that were completed, redesigned, or incorporated into private development.

DELIVERABLE:

1. Preliminary and final drafts, and final previous recommendations technical memorandum

Task 8 Community Visioning

The consultant shall work with the project manager, and the PAC, to develop a recommended approach to community visioning for the consideration of the PSC. Public feedback from existing plans, ongoing projects, and development activity in the study area shall be considered when developing the community visioning scope. This will include developing a workshop itinerary to identify corridor issues and gather input on transportation improvement scenarios consistent with community activities and plans. The number of improvement scenarios (maximum 10) will be determined at the discretion of the PAC based on the input received.

The consultant shall use the results of tasks 3 and 4 to assemble a suite of visualized study area profiles for the workshops and for NYMTC project webpage which show, to the extent practical, current and future travel volumes, modal splits (including pedestrian and bicycle movements), goods movements, safety information, and trip origins and destinations for the study area, as well as potential development projects.

The consultant shall work with the project manager, PAC, and PSC to provide materials for the NYMTC webpage for the visioning exercise. The consultant shall plan, organize, advertise, and execute up to five in-person public community visioning workshops per the Outreach Program. The workshop itinerary will be represented on the NYMTC project webpage. If the facilities hosting each workshop have the necessary equipment and technology for virtual participation, the consultant, with project manager approval, may also provide a virtual participation option.

The consultant shall organize the input gathered through the workshops and work with the project manager and PAC to develop recommended alternative development and transportation improvement scenarios for the consideration of the PSC.

DELIVERABLES:

1. Preliminary and final drafts, and final community visioning workshop approach & workshop itinerary
2. Preliminary and final drafts, and final visualized profile(s) for the workshops
3. Preliminary and final drafts, and final materials for the NYMTC website
4. Preliminary and final drafts and final recommended alternative development and transportation improvement scenarios

Task 9 Planning and Environmental Linkage (PEL) Study

The consultant shall forecast future conditions using NYMTC's consensus Socio-Economic Development (SED) forecasts, the New York Best Practice Model (NYBPM), and scenario forecasting. The forecasts shall be presented in a technical memorandum.

The consultant shall develop and analyze scoping concepts and a no build alternative. The consultant shall develop and analyze up to three long-term (generally meaning five years or longer) and three short-term (generally meaning less than 5 years) concepts in addition to a no build alternative. The consultant shall establish and provide the applicable design criteria specified in [Chapter 2 of the NYSDOT Highway Design Manual](#) for the development of each alternative based on facility type, functional class, design classification, and (where applicable) federal system. The analysis shall include:

- Non-construction improvements and varying degrees of construction improvements, as appropriate;
- Identification of general physical features and type of improvement associated with each solution;
- A level of detail sufficient for evaluating and comparing alternative solutions to needs, but not a level necessary for evaluating and comparing specific design features;
- Environmental, socio-economic, and community issues including context-sensitive and sustainable design opportunities; and
- Identification of complete streets design elements and how they will be incorporated and if any limitations exist for implementation.

The results shall be presented in a technical memorandum and shall be reviewed by the PSC and PAC.

For each concept, the consultant shall prepare rudimentary sketches of the plan, profile, and typical section views which at this stage shall show:

- Existing features;
- Proposed centerlines, pavement edges, curve radii, and termini;
- and significant environmental and geometric design constraints, labeled as such.

These sketches shall include only the minimum information needed to evaluate design concepts.

The consultant shall evaluate each scoping concept developed above with specific engineering analyses and considerations. The consultant shall discuss the concepts with the PSC and PAC as they are being developed to facilitate the elimination of unfeasible concepts as soon as practicable.

Analyses shall be conceptual only and limited to determining the relative suitability of each alternative. These analyses shall include: Design Geometry including identification and comparison of alignment constraints and (where applicable) justification for retaining nonstandard design features; environmental constraints; potential environmental impact mitigation measures; traffic flow and safety considerations, including signs, signals, level of service analysis for interchanges and intersections, and Intelligent Transportation Systems elements; structures, including bridges, retaining walls, major culverts, and building alterations (limited to establishing basic concepts, accommodating clearances and stream flow, and estimating costs); drainage; maintenance responsibility; potential for right-of-way acquisition; and lighting.

The consultant shall obtain additional site-specific information needed to discuss the effect of each alternative on the displacement of residences, populations, cultural resources, and businesses. Five

basic measures should be used to evaluate concepts for one design year to be determined by the project manager:

- 1) Assess Effectiveness. This analysis should quantify how each alternative addresses the identified deficiencies and needs.
- 2) Assess Land Use Consequences. This analysis should quantify how the concepts will affect accessibility and mobility in the Study Area. Resultant land use implications should then be assessed and compared to adopted comprehensive plans and zoning. It shall include an evaluation of sustainable land use and transportation efficient design that reduce greenhouse gas emissions and include stormwater management practices and other climate resilience measures or features such as nature-based solutions that improve the built and/or natural environment while enhancing resilience in the context of analysis and output for the Concepts.
- 3) Assess Economic Feasibility. This analysis shall compare the concepts in terms of whether the benefits are commensurate with the costs. It should aim to increase economic or business activity due to enhanced safety features and expanded connectivity for all road users to jobs and business opportunities, improving multi-modal transportation systems and connections, and incorporating affordable transportation options such as public transit and micro-mobility that advance quality jobs and workforce programs and/or provide workforce opportunities for historically underrepresented groups. It also should consider the availability of funds for construction and operation as well as equity in the distribution of costs and benefits using a Benefit Cost Analysis.
- 4) Assess Environmental Feasibility. This analysis identifies the impacts of each alternative on important environmental resources and feasibility regarding environmental issues and regulations. This analysis shall consider the effects of climate change and extreme weather events, safety-based countermeasures, and evidence-based practices. It should also consider environmental justice and disproportionate, adverse safety impacts that affect underserved people on our roadways, and people using alternative modes particularly people walking and biking, barriers existing or to be removed, and evaluate the equity impact assessments of the proposed concepts. The consultant shall determine appropriate avoidance, minimization of harm, and mitigative measures to compensate for impacts from recommended alternatives, including impacts to national and state-regulated freshwater wetlands, and noise impacts.
- 5) Assess the feasibility of each alternative. Ensure conformity with local, state, and federal comprehensive plan goals and policies, strategies, or initiatives.

These evaluations shall be prepared by the consultant for review by the PSC.

The consultant shall develop a cost estimate for each alternative. The consultant shall determine risks to the cost estimates, including the pricing information. The consultant shall provide an easy-to-read pictorial summary guide that helps evaluate the positives and negatives of each alternative in a creative and meaningful way for the PSC.

At approximately the mid-point of this task, the consultant shall prepare a Preliminary Initial Assessment for all selected alternatives. This assessment shall be presented in a technical memorandum.

The consultant shall complete a PEL Questionnaire consistent with the 23 CFR 450 (Planning regulations) and other FHWA policies on the PEL process.

DELIVERABLES:

1. Preliminary and final drafts, and final future conditions technical memorandum
2. Preliminary and final drafts, and final scoping concepts technical memorandum
3. Mid-point Preliminary Initial Assessment technical memorandum
4. Sketches of the scoping concepts
5. Preliminary and final drafts, and final scoping concepts evaluation technical memorandum
6. Preliminary and final drafts, and final cost estimates for each concept
7. Preliminary and final drafts and final PEL questionnaire

Task 10 Draft Study Report

The consultant shall work with the project manager and PAC to develop a draft study report for the consideration of the PSC. The draft report will assemble relevant study deliverables and include recommended actions based on the consideration of the alternative development and transportation improvement scenarios developed in Task 9. The draft final report shall include an Executive Summary which shall also be available as a stand-alone document. The consultant shall have the Executive Summary translated into Spanish.

DELIVERABLES:

1. Preliminary and final drafts of the draft study report
2. Preliminary and final drafts of the draft executive summary

Task 11 Public Review

The consultant shall work with the project manager and PAC to convene up to three public review meetings to provide an overview of the draft study report and gather feedback. Two of the review meetings will be held in-person within any of the municipalities included in the study area, with the option for the public to participate remotely if the meeting facility supports it. One review meeting will be fully remote (online). The consultant will be responsible for securing the meeting space for the in-person meetings. The consultant shall provide the study overview and facilitate gathering feedback from public attendees at each public review meeting.

DELIVERABLES:

1. Record of public feedback.

Task 12 Final Study Report

The project manager will work with the PAC to develop recommended changes to the draft study report for the consideration of the PSC. The project manager will then work with the PSC to finalize the changes.

The consultant shall compile the finalized changes into a final study report and make corresponding edits to the executive summary and translated executive summary. The consultant shall create a brochure and PowerPoint presentation summarizing the study and its recommendations for review by the project manager, PAC, and PSC.

The consultant shall assist the project manager in broadly sharing the study results, both online and via electronic media, and conduct a final project presentation for the public.

DELIVERABLES:

1. Final Executive Summary
2. Final Study Report
3. Final Summary Brochure and PowerPoint

PROJECT ASSUMPTIONS

It is assumed that the following insurance coverage will be required for this agreement:

<u>Coverage Type</u>	<u>Applicable</u>
1. Workers' Compensation and Disability	YES
2. Commercial General Liability (CGL)	YES
3. Special Protective and Highway Liability (OCP)	NO
4. Commercial Automobile including liability and required coverage for New York	YES
5. Umbrella or Excess Liability	YES
6. Professional Liability/ Errors and Omissions	YES
1. Railroad Protective Liability ^{1, 3}	NO
2. Marine Protection & Indemnity ^{2, 3}	NO

NOTES:

1. Consultants are not able to obtain this coverage without knowing the affected railroad(s). Consultant may not be able to obtain Railroad Protective insurance until after the consultant contract is executed and Rail permits are obtained.
2. Marine insurance is provided by the entity that owns the watercraft and is specific to the vessel to be used. Documentation is required to be provided when use of the vessel is necessary. Vessel may be provided by prime, subconsultant, or subcontractor. A firm's Commercial General Liability policy does not provide the required coverage unless (a) the consultant provides coverage form CG 00 01 04 13, and (b) the vessel is owned and operated by the Prime Consultant, and (c) the vessel is used as a rescue skiff (i.e. not for hire), and (d) the vessel is less than 26 feet in length. If the vessel is provided by a subcontractor, insurance certificates and other documentation are typically not available until after the consultant's prime contract (with NYSDOT) is executed.

Working Over or Near Water. The Consultant shall protect workers from drowning in accordance with 29 CFR 1926.106 Working over or near water. Any worker who is exposed to the risk of drowning shall wear a U.S. Coast Guard approved personal flotation device (PFD) at all times. A risk of drowning shall be considered to exist where a worker has the possibility of falling from above, or from an adjacent slope, into water depths that exceed 5 feet, or into water depths subject to sudden fluctuations to a depth exceeding 5 feet. A risk of drowning may also exist where water depths as little as 2 feet are combined with swift currents, or where a fall into the water may result in a person being rendered unconscious or otherwise disabled. Working on top of ice shall be considered as working over water. When continuous fall protection is used, without exception, the drowning hazard has effectively been removed, and workers are not required to wear a PFD. When aerial lifts are used over or near water, the drowning hazard has not been removed, and occupants

of the lift are required to wear a PFD, regardless of whether a personal fall arrest system is used. When safety nets are used as fall protection, the drowning hazard has not been removed, and workers are required to wear a PFD. Workers shall not work alone in situations where a risk of drowning exists. There shall be an acceptable plan in place that enables a worker to be retrieved within 4 minutes from the time they entered the water. If greater hazards exist, including very cold water, rapids, or a wide channel, safeguards shall enable the worker to be retrieved before being overcome by that hazard, including multiple skiffs when warranted. A boat/skiff for emergency response shall be in place prior to the exposure. The boat/skiff shall be unlocked and available for immediate use. The boat/skiff for emergency rescue operations shall be equipped with a motor in good operation, paddles or oars, a ring buoy, and a reach extension device. The boat/skiff shall be equipped and operated in accordance with NYS Navigation Law. Ring buoys shall be provided. The height above the water shall be considered in determining the appropriate length of line attached, but in no case shall the line be less than 100 feet. The ring buoys shall be placed at appropriate intervals, but in no case shall the spacing be greater than 200 feet along the work site shoreline, work limits, and across the structure.

3. Proof of Railroad Protective Liability and Marine Protective & Indemnity Insurance will be required before work tasks requiring such coverage are set to begin.

Attachments 14-17: Project Specific Attachments

The following Attachments containing the RFP's Additional Project Specific Information can be found on the NYSDOT project web site, located at <https://www.dot.ny.gov/business> . Click on "Consulting Services", then click on "Opportunities", and then click on the **date** to the left of **"C004308: Northern Westchester East-West Corridors Study"** .

Attachment 14 – Proposer Question Template
Attachment 15 – Cost Proposal Workbook
Attachment 16 – Staffing Table/Level of Effort
Attachment 17 – RFP Modifications

These attachments can also be found on the NYMTC project web site, located at:
<https://www.nymtc.org/en-us/Utility-Menu/Doing-Business/Current-RFPs>